

THE BIHAR AND ORISSA CODE,

VOLUME I.

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THE BIHAR AND ORISSA CODE

In Four Volumes :

CONTAINING

The Regulations and Local Acts in force in the Province of Bihar and Orissa

WITH

Tables and Lists, Notes as to Scheduled Districts and
De-Regulationised Tracts, and Notifications declaring
Enactments in force in, or extending Enactments
to, such Districts and Tracts,
and a Full Index

FIRST EDITION

EDITED BY

W. S. COUTTS, I.C.S.,

Of the Middle Temple, Barrister-at-Law

VOLUME I :

Bengal Regulations, Local Acts of the Governor General of India in Council,
and Regulations made under the Government of India Act, 1870.



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SUPERINTENDENT GOVERNMENT PRINTING, INDIA
1917

[Price of this Volume : Indian, 7 Rupees; English, 10 Shillings and 6 Pence.]

CONTENTS.

	Page
PREFACE	1
CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME	iii
ENACTMENTS <i>in extenso</i> —	
PART I.—BENGAL REGULATIONS	1—340
PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL .	341—773
PART III.—REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 & 34 VICT., c 3)	775—886

PREFACE.

THIS, the first edition of the Bihar and Orissa Code, follows the arrangement of the Bengal Code, 4th Edition, and is published in four volumes.

2. Volume I contains the Bengal Regulations, the Local Acts of the Governor General of India in Council and the Regulations made under the Government of India Act, 1870 (33 & 34 Vict., c. 3). It also contains four General Acts, namely (1) the Tributary Mahals of Orissa Act, 1893 (11 of 1893), (2) the Amending Act, 1897 (5 of 1897), (3) the Assam Labour and Emigration Act, 1901 (6 of 1901), and (4) the Repealing and Amending Act, 1903 (1 of 1903). Volume II contains the Bengal Acts of 1862 to 1890 with the exception of Acts which are not in force in any part of the Province of Bihar and Orissa. Volume III contains the Bengal Acts of 1891 to March 1912, with the like exception, and Bihar and Orissa Acts of 1912 to 1916.

Certain Acts of a purely private character, or which are spent or obsolete have not been printed in this Code.

3. Chronological Tables prefixed to Volumes I, II and III show which Acts are printed in each Volume and the effect of subsequent legislation on each enactment.

4. Volume IV contains—

- (1) a list of abbreviations used in the Code.
- (2) a list of publications cited in the Code.
- (3) a chronological table of enactments declared in force in, or extended to, scheduled districts in Bihar and Orissa by notification under the Scheduled Districts Act, 1874 (14 of 1874), and still in force there.
- (4) a chronological table of enactments in force in the de-regulationised tracts in Bihar and Orissa.
- (5) a table of short titles of enactments printed in the Code.

PREFACE.

- (6) a full index to the Code, and
- (7) a form for the entry of correction slips.

5. I have to thank the Hon'ble Mr. S. K. Sahay of the Ranchi Bar and Mr. C. M. Agarwala of the High Court Bar for the assistance they have given me in the preparation of this Code.

W. S. COUTTS,

Registrar, High Court, Patna.

the 21st September 1917.

Chronological Table^[1] of Enactments Printed in this Volume

[With respect to the entry of repealing enactments in column 4 of this Table, the following has been the ordinary practice —

- (1) where an enactment has been totally repealed more than once, the latest repealing enactment has alone been entered,
- (2) where an enactment has been partially repealed and afterwards totally repealed the total repeal only has been entered a repeal of the unrepealed portions of an enactment is treated as a total repeal,
- (3) partial repeals covered by later partial repeals have not been entered,
- (4) local repeals covered by later local repeals have not been entered,
- (5) where an enactment has been locally repealed and afterwards repealed by an enactment whose operation is unrestricted the later repealing enactment has alone been entered]

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation	Page

I —BENGAL REGULATIONS

1793	1	The Bengal Permanent Settlement Regulation, 1793	Short title given, Act 5 of 1897 Application barred in the Angul District by Reg 3 of 1913 S 10 supplemented Ben Reg 1 of 1801, s 8 Ss 10 11 rep in pt Act 4 of 1846	3
"	2	The Bengal Land revenue Regulation 1793	Short title given, Act 5 of 1897 The application of the whole Reg is the whole of the Reg is also barred in the Angul District by Reg 3 of 1913 S 13 rep in pt Ben Reg 5 of 1804 Rep as to <i>Diwans</i> , Ben Reg 15 of 1813 Ss 28, 29 34 35, 49 to 70 rep, Ben, Reg 3 of 1822 S 12 rep Act 25 of 1854 S 17 rep Act 8 of 1868 [See next page]	17

[wherever in force, and whether repealed or unrepealed see the Chronological Tables of the Indian Statutes Ed 1909]

for General of India
which are in force in
of all enactments,

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.

I.—BENGAL REGULATIONS—*contd.*

1793	2	The Bengal Land-revenue Regulation, 1793— <i>contd.</i>	<p>Ss. 23, 44 rep., Act 26 of 1871.</p> <p>Ss. 2, 19, 48 rep., s. 3, rep. in pt., Act 12 of 1873.</p> <p>Ss. 4, 8 to 10, 14 to 16, 18, 24 to 26 rep. in pt., ss. 21, 22, 27, 30 to 32, 46, 47 rep., Act 16 of 1874.</p> <p>S. 8 (13) rep. in pt., Act 12 of 1876.</p> <p>Ss. 18, 36, 38, 39, 40, 42, 43, 45 am., Act 1 of 1903.</p>	
„	8	The Bengal Decennial Settlement Regulation, 1793.	<p>Short title given, Act 5 of 1897 . . .</p> <p>Application barred in the Angul District by Reg. 3 of 1913.</p> <p>S. 20 rep. in pt., Ben. Reg. 7 of 1796.</p> <p>Expld., Ben. Reg. 1 of 1801, s. 14.</p> <p>Ss. 23 to 25 rep., Ben. Reg. 17 of 1805.</p> <p>S. 58 rep., s. 65 rep. in pt., Ben. Reg. 5 of 1812, s. 3.</p> <p>S. 62 rep., Ben. Reg. 12 of 1817, as ext. by Ben. Reg. 1 of 1819, s. 4 (2).</p> <p>Ss. 1 to 3, 5 to 12, 42, 44 to 47, 61, 63, 68 to 101 rep., ss. 21, 35 rep. in pt., Act 16 of 1874.</p> <p>Ss. 16 to 18, 28, 29, 48, 56, 57, 59, 60 rep., s. 67 rep. in pt., Act 12 of 1876.</p> <p>Ss. 51 to 55, 64, 65 rep. in “the whole of the former Province of Bengal” except the town of Calcutta, the Division of Orissa and the Scheduled Districts by Act 8 of 1885. They have been repealed in Orissa by B. and O. Act 2 of 1913.</p> <p>Ss. 19, 66 rep. in pt., ss. 20, 21 am., s. 33 rep., Act 1 of 1903.</p>	31

1	2	3	4	5
Year	No	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation	Page

I.—BENGAL REGULATIONS—contd.

1793	11.	The Bengal Inheritance Regulation, 1793.	Short title given, Act 5 of 1897 . . . Application restricted— Ben Reg 10 of 1800 Ben Reg 12 of 1805, s 30 Ss 2 to 6 rep in pt, Act 16 of 1874 S 3 am, Act 12 of 1891 .	43
„	19	The Bengal Revenue free Lands (Non Bādshāhi Grants) Regulation, 1793	Short title given, Act 1 of 1903 . Application barred in the Angul District by Reg 3 of 1913 Ss 12 to 14, 16, 19 rep, Ben Reg 2 of 1819 Am, Reg 14 of 1825 S 10 rep in pt, Act 10 of 1859, s 28 S 23 rep, Act 8 of 1868 S 2 (2) rep in pt, s 18 rep, Act 16 of 1874 Ss 21, 22, 29 to 34, 36 to 46 rep, Ben Act 7 of 1876 S 4 rep in pt, Act 12 of 1891 Ss 2, 3, 8, 10, 15 am, ss 25, 35 rep, Act 1 of 1903	49
„	37	The Bengal Revenue free Lands (Bādshāhi Grants) Regulation 1793	Short title given, Act 1 of 1903 . Application barred in the Angul District by Reg 3 of 1913 [See next page]	67

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.
I.—BENGAL REGULATIONS—<i>contd.</i>				
1793	37	The Bengal Revenue-free Lands (Bādshāhi Grants) Regulation, 1793— <i>contd.</i>	<p>Ss. 7 to 9, 11, 14 rep., Ben. Reg. 2 of 1819.</p> <p>Am., Ben. Reg. 13 of 1825, s. 5.</p> <p>„ Ben. Reg. 14 of 1825.</p> <p>S. 10 rep. in pt., ss. 13, 25, 34 rep., Act 16 of 1874.</p> <p>Ss. 16 to 18, 24, 26 to 29, 31 to 33, 35 to 41 rep., Ben. Act 7 of 1876.</p> <p>Ss. 2, 3, 5, 10 am., s. 2 (2) rep. in pt., ss. 20, 30 rep., Act 1 of 1903.</p>	
„	38	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.	<p>Short title given, Act 5 of 1897 . . .</p> <p>Application barred in the Angul District by Reg. 3 of 1913.</p> <p>Ss. 3 to 6 rep., Act 8 of 1868.</p> <p>S. 2 rep. in pt., Act 16 of 1874.</p> <p>Title and s. 1 rep. in pt., Act 12 of 1891.</p> <p>S. 2 rep. in pt., Act 1 of 1903.</p>	77
1794	3	The Bengal Native Revenue-officers Regulation, 1794.	<p>Short title given, Act 1 of 1903 . . .</p> <p>Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.</p> <p>Rep. (except ss. 12, 13, 16 to 20), s. 13 rep. in pt., Act 16 of 1874.</p> <p>Ss. 16 to 18 rep. in pt., Act 12 of 1876.</p> <p>S. 12 rep., ss. 16, 17, 18, 20 rep. as to recovery of money belonging to the Govt., Ben. Act 7 of 1880.</p> <p>Title rep. in pt., Act 12 of 1891.</p> <p>Title and ss. 16, 17, 18, 20 rep. in pt., s. 19 rep., Act 1 of 1903.</p>	79

Chronological Table of Enactments Printed in this Volume—contd

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page

I—BENGAL REGULATIONS—contd

1799	5	The Bengal Wills and Intestacy Regulation, 1799	Short title given, Act 5 of 1897 Ss 5 6 am, Ben Reg 5 of 1827 Ss 2 3 rep in pt, Act 40 of 1858 S 2 rep in pt, Act 21 of 1870 Ss 1, 2, 3, 7, 8 rep in pt, Act 16 of 1874 S 7 am, Act 4 of 1914 Title rep in pt, Act 12 of 1891 Ss 2, 3 rep in pt, s 7 rep in pt and am, Act 1 of 1903	83
1800	8	The Bengal Revenue free Lands Regulation 1800	Short title given, Act 1 of 1903 Application barred in the Angul District by Reg 3 of 1913 S 19 rep in pt, Act 16 of 1874 Rep (except s 19) Ben Act 7 of 1876 Title rep in pt, Act 12 of 1891	87
	10	The Bengal Inheritance Regulation, 1800	Short title given Act 5 of 1897 .	89
1801	1	The Bengal Land revenue Assessment Regulation 1801	Short title given, Act 1 of 1903 Application barred in the Angul District by Reg 3 of 1913 [See next page]	91

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.
I.—BENGAL REGULATIONS—<i>contd.</i>				
1801	1	The Bengal Land-revenue Assessment Regulation, 1801— <i>contd.</i>	<p>Ss. 12, 13 rep., Ben. Reg. 19 of 1814.</p> <p>Ss. 3, 5 to 7, 11 rep., Ben. Reg. 11 of 1822.</p> <p>Ss. 1, 2, 4, 9, 15 rep., ss. 8, 10 rep. in pt., Act 16 of 1874.</p> <p>S. 14 rep. in pt., Act 12 of 1876.</p> <p>Title, ss. 8, 14 rep. in pt., Act 12 of 1891.</p> <p>Ss. 8, 10 rep. in pt., Act 1 of 1903.</p>	
1804	10	The Bengal State-offences Regulation, 1804.	<p>Short title given, Act 5 of 1897 . . .</p> <p>S. 4 rep. in pt., Act 16 of 1874.</p> <p>Ss. 2, 3 rep. in pt., Act 12 of 1891.</p>	97
1805	12	The Cuttack Land-revenue Regulation, 1805.	<p>Short title given, Act 1 of 1903 . . .</p> <p>Am., Ben. Reg. 14 of 1825.</p> <p>S. 31 rep. in pt., Act 10 of 1840.</p> <p>S. 24 rep. in pt., Act 10 of 1859, s. 28.</p> <p>S. 32 rep., Act 16 of 1864.</p> <p>Ss. 12 to 16 rep., Act 16 of 1874.</p> <p>S. 30 rep. in pt., Act 12 of 1891.</p> <p>S. 36 rep. in pt., s. 37 rep., Act 11 of 1893.</p> <p>Ss. 1, 31 rep. in pt., ss. 2 to 11 rep., ss. 18, 20, 22, 26, 28, 30 am., Act 1 of 1903.</p>	103
„	13	The Cuttack Police Regulation, 1805.	<p>Short title given, Act 1 of 1903 . . .</p> <p>S. 2 rep. in pt., s. 12 rep., Act 16 of 1874.</p> <p align="right">[See next page.]</p>	115

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page
I —BENGAL REGULATIONS— <i>contd</i>				
1805	13	The Cuttack Police Regulation, 1805— <i>contd</i>	<p>S 13 rep in pt, Act 12 of 1876</p> <p>S 13 rep in pt, Act 11 of 1893</p> <p>Title and ss 1, 4 (4) rep in pt, ss 3, 4 (4) am, ss 4 (3), 5, 6, 7, 10, 11 rep, Act 1 of 1903</p>	
1806	11	The Bengal Troops Transport and Travelers' Assistance Regulation, 1806	<p>Short title given, Act 5 of 1897</p> <p>Supplemented, Ben Reg 6 of 1825</p> <p>S 20 rep, Ben Reg 2 of 1811</p> <p>Rep as to <i>coolies</i>, Ben Reg 3 of 1820</p> <p>Ss 9, 11, 12 rep, Act 16 of 1874</p> <p>Ss 10, 13 to 19 rep, Act 12 of 1876</p> <p>Title and ss 1, 8 rep in pt, Act 12 of 1891</p> <p>Ss 2, 7 rep in pt, s 4 (3) am, Act 5 of 1897</p>	119
1810	19	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810	<p>Short title given, Act 1 of 1903</p> <p>Application barred in Angul by Reg 3 of 1913 and in the Sonthal Parganas by Reg 3 of 1872 as amended by Reg 3 of 1899</p> <p>Rep as to endowments for the support of Mosques, Hindu temples or other religious purposes, Ben Reg 17 of 1816, s 16</p> <p>Rep as to provision by Board of Revenue for due repair of public edifices of the description of bridges, <i>sarais</i> and <i>kaltrags</i>, Act 20 of 1863</p> <p>Title and ss 1, 2, 3, 5, 6, 7, 8, 10, 14, 15 rep in pt, ss 3, 4, 8, 9, 12, 13 am, Act 1 of 1903</p>	127

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.

I.—BENGAL REGULATIONS—*contd.*

1812	5	The Bengal Land-revenue Sales Regulation, 1812.	<p>Short title given, Act 1 of 1903 . . .</p> <p>Application barred in the Angul District by Reg. 3 of 1913. .</p> <p>S. 2 expld., Ben. Reg. 18 of 1812, s. 2.</p> <p>S. 28 rep. in pt., Ben. Reg. 12 of 1824.</p> <p>„ residue rep., Ben. Reg 7 of 1830.</p> <p>Ss. 5 to 23 rep., Act 10 of 1859.</p> <p>S. 1 rep., ss. 2, 3, 4, 26, 27 rep. in pt., Act 16 of 1874.</p> <p>Ss. 24, 25 rep. in pt., Act 12 of 1876.</p> <p>Ss. 2, 3, 4, 26, 27 rep. in the whole of the former Province of Bengal “except the town of Calcutta, the Division of Orissa and the Scheduled Districts” by Act 8 of 1885. Repealed in Orissa by B. and O. Act 2 of 1913.</p> <p>S. 25 am., ss. 26, 27 rep. in pt., Act 1 of 1903.</p>	133
„	11	The Bengal Foreign Immigrants Regulation, 1812.	<p>Short title given, Act 5 of 1897 . . .</p> <p>S. 5 rep. in pt., Act 16 of 1874.</p> <p>“Governor General in Council” substituted for “Local Government,” s. 5 (2) am., Act 5 of 1897.</p> <p>S. 2 am., Act 13 of 1898, s. 16.</p> <p>S. 5 am., Act 1 of 1903.</p>	137
„	18	The Bengal Leases and Land-revenue Regulation, 1812.	<p>Short title given, Act 1 of 1903 . . .</p> <p>Application barred in the Angul District by Reg. 3 of 1913.</p> <p>S. 3 (1) rep., Act 16 of 1874.</p> <p align="right">[See next page.]</p>	141

Chronological Table of Enactments Printed in this Volume—contd

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page

I—BENGAL REGULATIONS—contd

1812	18	The Bengal Leases and Land revenue Regulation, 1812— <i>contd</i>	Rep except in the Orissa Division and the Scheduled Districts by Act 8 of 1885 S 3 (2) rep in pt, Act 12 of 1891 S 1 rep in pt, Act 1 of 1903	
1814	29	The Bengal Ghatwah Lands Regulation, 1814	Short title given, Act 1 of 1903 S 3 rep in pt, s 5 am, Act 1 of 1903	143
1816	5	The Bengal Kanungos Regulation, 1816	Short title given, Act 1 of 1903 Ext, Ben Reg 1 of 1819, s 4 (1) Ss 1, 3 rep in pt, Act 16 of 1874 Ss 5, 11 am, s 10 rep in pt, Act 1 of 1903	147
1817	12	The Bengal Patwaris Regulation, 1817.	Short title given, Act 1 of 1903 Application barred in the Angul District by Reg 3 of 1913 Ext, Ben Reg 1 of 1819, s 4 (2) S 32 supplemented, Act 20 of 1848 Ss 2, 4, 5, 6 rep, ss 9, 11, 27, 31, 32, 33 rep in pt, Act 16 of 1874 Ss 8, 13 15, 16, 17, 30, 33 rep in pt, ss 28, 28 rep, Act 12 of 1876 Ss 31, 35 am, s 32 rep in pt, Act 12 of 1891 Title and ss 1, 23, 27, 29 30 rep in pt, s 18 am, Act 1 of 1903	153

Chronological Table of Enactments Printed in this Volume—contd.

	2	3	4	5
ar.	No.	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.

I.—BENGAL REGULATIONS—*contd.*

817	20	The Bengal Police Regulation, 1817.	<p>Short title given, Act 1 of 1903 . . .</p> <p>Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.</p> <p>Forms 2, 3, 8, 14 rep., Ben. Reg. 7 of 1829.</p> <p>S. 30 (4) rep., Act 18 of 1835.</p> <p>S. 27 rep., Act 10 of 1859.</p> <p>Ss. 9, 12 to 20, 22 to 26 rep., Act 17 of 1862.</p> <p>S. 21 rep. locally, Ben. Act 6 of 1870, s. 2, as mod. by Ben. Act 1 of 1871, s. 1. Every place to which the Chota Nagpur Rural Police Act, 1914, applies, B. and O. Act 1 of 1914, s. 38.</p> <p>Ss. 1 to 8, 10, 11, 29 (10), (11), 30 (3), (6), 31, 33, 34 rep., ss. 29 (1) to (4), (9), 30 (2) rep. in pt., Act 16 of 1874.</p> <p>S. 29 (5) to (8) rep., Act 8 of 1875.</p> <p>Ss. 28, 32 rep., ss. 21 (10), 29 (1) to (4) rep. in pt., Act 12 of 1876.</p> <p>S. 21 rep. locally, Ben. Act 5 of 1887, s. 38.</p> <p>Title and s. 30 (heading) rep. in pt., s. 29 [heading and cl. (12)] am., Forms 1, 4, 5, 7, 9 to 12, 15 to 21 rep., Act 12 of 1891.</p>	165
1818	3	The Bengal State-Prisoners Regulation, 1818.	<p>Short title given, Act 5 of 1897 . . .</p> <p>Supplemented, Acts 34 of 1850 and 3 of 1858.</p> <p>Ss. 4, 9 rep. in pt., s. 8 rep., Act 16 of 1874.</p> <p>S. 9 am., Act 12 of 1891.</p> <p>S. 4 rep. in pt., Act 1 of 1903.</p>	175

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation	Page
I—BENGAL REGULATIONS—contd.				
1819	1	The Bengal Kánungos and Patwáris Regulation, 1819	Short title given, Act 1 of 1903 . . Application barred in the Angul District by Reg 3 of 1913 Ss 1, 2, 3 rep, Act 12 of 1873 Title and s 4 (5) rep in pt, Act 12 of 1891 S 4 am, s 4 (6) rep in pt, Act 1 of 1903	181
"	2	The Bengal Land revenue Assessment (Resumed Lands) Regulation, 1819	Short title given, Act 1 of 1903 . . Application barred in the Angul District by Reg 3 of 1913 Ss 11, 12, 13 (3), 14, 19 ext, Ben Reg 7 of 1822, s 19 (2) Ss 5, 6, 8, 10, 11, 13, 15, 22 am, Ben Reg 9 of 1825, s 5 Am, Ben Reg 14 of 1825, s 6 Ss 22 to 24 am, Ben Reg 3 of 1828, s 10 S 30 rep, Ben Act 7 of 1862 S 19 (2) rep, Act 12 of 1873 Ss 2, 24 (2), 25, 27 rep, ss 19 (1), 20, 21, 26 rep in pt, Act 16 of 1874 Ss 11, 19 rep in pt, Act 12 of 1876 S 29 rep, ss 4, 12 rep in pt, ss 6, 12, 26 (2) am, Act 12 of 1891 S 3 (1) rep in pt, ss 13 (3), 14, 21 (2) am, Act 1 of 1903	185
"	8	The Bengal Patni Tahúks Regulation, 1819	Short title given, Act 5 of 1897 . . Application barred in the Angul District by Reg 3 of 1913 [See next page]	206

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.

I.—BENGAL REGULATIONS—*contd.*

1819	8	The Bengal Patni Taluks Regulation, 1819— <i>contd.</i>	<p>Supplemented and application of ss. 9, 11, 13, 15 and 17 ext., Ben. Reg. 1 of 1820.</p> <p>S. 9 rep. in pt. and supplemented, Act 25 of 1850.</p> <p>Supplemented, Act 6 of 1853.</p> <p>Ss. 18, 19 rep., Act 10 of 1859.</p> <p>Am., application of s. 13 ext., s. 16 rep., Ben. Act 8 of 1865.</p> <p>Ss. 2, 3 (3), 8 (2), 9, 15 (2) rep. in pt., Act 16 of 1874.</p> <p>Title and preamble rep. in pt., Act 12 of 1891.</p> <p>Ss. 9, 14 (2) am., s. 17 (8) rep. in pt., Act 1 of 1903.</p>	
1820	1	The Bengal Patni Taluks Regulation, 1820.	<p>Short title given, Act 5 of 1897 . . .</p> <p>Application barred in the Angul District by Reg. 3 of 1913.</p> <p>Am., Ben. Act 8 of 1865, s. 3.</p> <p>S. 2 am. and rep. in pt., Act 1 of 1903.</p>	223
1821	4	The Bengal Land-revenue (Assistant Collectors) Regulation, 1821.	<p>Short title given, Act 1 of 1903 . . .</p> <p>Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.</p> <p>Ss. 2, 3, 8 (4) rep., Act 12 of 1873.</p> <p>Ss. 7, 8 (3) rep. in pt., Act 16 of 1874.</p> <p>Ss. 1, 8 rep. in pt., ss. 4 to 6 rep., Act 12 of 1876.</p> <p>Title rep. in pt., Act 12 of 1891.</p> <p>Ss. 7, 8 am., Act 1 of 1903.</p>	225

Chronological Table of Enactments Printed in this Volume—contd

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation	Page
I—BENGAL REGULATIONS—contd				
1822	7	The Bengal Land revenue Settlement Regulation, 1822	<p>Short title given, Act 1 of 1903</p> <p>Portions ext, Ben Reg 9 of 1825, ss 2, 3, 5 (9)</p> <p>Reg in pt, s 5 expld, s 33 supplemented, Ben Reg 9 of 1833, ss 2, 3, 5 to 11</p> <p>S 23 (3, rep in pt, Act 8 of 1835</p> <p>S 31 (2) rep in pt, Act 25 of 1837</p> <p>Ext, Act 31 of 1858</p> <p>S 22 rep, ss 20 <i>et seq</i> rep in pt, Act 10 of 1859</p> <p>Ext, Act 11 of 1859, s 60</p> <p>S 25 rep, Act 20 of 1865</p> <p>S 29 supplemented, Ben Act 3 of 1868</p> <p>Ss 2 (1) to (5) rep, ss 2 (6), 5 (2), 6 (1), 7 (1), 9 (2), 12 (2), 15, 16, 17, 20 (2), 23 (3), 29 (5), 30, 31 (2), 33 (1) rep in pt, Act 16 of 1874</p> <p>S 27 rep, s 29 (1), (5) rep in pt, Act 12 of 1876</p> <p>Title rep in pt, Act 12 of 1891.</p> <p>Title and ss 1, 7 (1), (6), 29 (1), 31 (2), 33 (1), 35 rep in pt, ss 2 (6), 3, 5, 6 (2) 7 (1), 8, 9 (3), 10 (1), (3), (9), 13, 16 17, 20, 23 (1), 24 (2), 26, 32, 35 am, ss 5 (1), 6 (4), 7 (4) rep, Act 1 of 1903</p>	233
"	11	The Bengal Government Indemnity Regulation, 1822	<p>Short title given, Act 1 of 1903 . . .</p> <p>Rep (except ss 2, 36, 38), Act 12 of 1841</p> <p>[See next page]</p>	269

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.

I.—BENGAL REGULATIONS—*contd.*

1882	11	The Bengal Government Indemnity Regulation, 1822— <i>contd.</i>	Title rep. in pt., Act 12 of 1891. S. 2 rep., Act 1 of 1903. S. 36. Application barred in the Angul District by Reg. 3 of 1913. Ss. 36 and 38. Application barred in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899.	
1823	6	The Bengal Indigo Contracts Regulation, 1823.	Short title given, Act 1 of 1903 Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899. Supplemented, Ben. Reg. 5 of 1830. Supplemented, and s. 5 (3) rep., Act 10 of 1836. Ss. 7, 8 rep., Act 7 of 1870. Ss. 3 (1), 6 rep. in pt., Act 16 of 1874. Ss. 1, 3 (7) rep. in pt., Act 12 of 1876. Preamble and s. 3 (4), (5), (6), (7), (9) rep. in pt., s. 6 am., Act 12 of 1891. S. 4 (2) rep. in pt., Act 1 of 1903.	273
„	7	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.	Short title given, Act 5 of 1897 Application barred in the Angul District by Reg. 3 of 1913. Ss. 2 (3), 5 rep., s. 8 rep. in pt., Act 16 of 1874. Ss. 3, 6, 8 am., Act 5 of 1897. S. 6 rep. in pt., s. 7 rep., Act 1 of 1903.	277
1825	6	The Bengal Troops Transport Regulation, 1825.	Short title given, Act 5 of 1897 S. 5 rep. in pt., Act 12 of 1876. Ss. 2, 4, 5 rep. in pt., Act 1 of 1903.	283

Chronological Table of Enactments Printed in this Volume—contd

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation	Page
I—BENGAL REGULATIONS—contd				
1825	9	The Bengal Land revenue Settlement Regulation, 1825	Short title given, Act 1 of 1903 Ext, Act 11 of 1859, s 60 S 5 (9) rep in pt, Act 20 of 1865 Preamble and ss 2 (1) 3, 8 rep in pt, s 9 rep, Act 12 of 1891 Ss 3, 4, 5 (8), 6, 8 am, s 5 (10) rep in pt, Act 1 of 1903	289
"	11	The Bengal Alluvion and Diluvion Regulation, 1825	Short title given, Act 5 of 1897 Application barred in the Angul District by Reg 3 of 1913 Supplemented, Ben Act 4 of 1868 S 4 (1) rep in pt, Act 8 of 1885, and in Orissa by B and O Act 2 of 1913 S 5 rep in pt, Act 1 of 1903	299
"	13	The Bengal Land revenue Settlement (Resumed Kánungos and Revenue free Lands) Regulation, 1825	Short title given, Act 1 of 1903 Application barred in the Angul District by Reg 3 of 1913 S 2 rep in pt, ss 4, 5 rep in pt and am, Act 12 of 1891 Ss 2, 3, 5 am, Act 1 of 1903	303
"	14	The Bengal Revenue free Lands Regulation, 1825	Short title given Act 1 of 1903 Application barred in the Angul District by Reg 3 of 1913 S 5 rep, Act 12 of 1873 S 6 rep in pt, Act 16 of 1874 Title and ss 1, 2 3 (2), (5) (7), 4 rep in pt, ss 1, 2, 3, 6 am, Act 1 of 1903	307

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.

I.—BENGAL REGULATIONS—*contd.*

1827	3	The Bengal Corruption and Extortion Regulation, 1827.	Short title given, Act 5 of 1897 . . . Application barred in the Angul District by Reg. 3 of 1913, and in the Sonthal Parganas by Reg. 3 of 1872 as amended by Reg. 3 of 1899. Rep. (except s. 5), Act 16 of 1874. S. 5 rep. in pt., Act 12 of 1876. S. 5 am., Act 1 of 1903.	313
„	5	The Bengal Attached Estates Management Regulation, 1827.	Short title given, Act 5 of 1897 . . . Ss. 2, 3, 4 rep. in pt., Act 16 of 1874. S. 2 rep. in pt., s. 3 am., Act 1 of 1903. Application restricted, Reg. 3 of 1913, and Reg. 3 of 1872 as amended by Reg. 3 of 1899.	315
1828	3	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.	Short title given, Act 1 of 1903 . . . Application restricted by Reg. 3 of 1913, and Reg. 3 of 1872 as amended by Reg. 3 of 1899. S. 9 rep., Act 12 of 1873. S. 10 (4), (5) rep. in pt., s. 11 (1) rep., Act 16 of 1874. Title and ss. 1, 10 (2), 12, 13 (1), (2) rep. in pt., ss. 2 to 8 rep., ss. 10 (2), (3), 13 (1) am., Act 1 of 1903. S. 13 (2) rep., Ben. Act 1 of 1905.	319
„	4	The Bengal Land-revenue Settlement Regulation, 1828.	Short title given, Act 1 of 1903 . . . Application restricted by Reg. 3 of 1913, and Reg. 3 of 1872 as amended by Reg. 3 of 1899. S. 2 (1), (2), (3) rep., Ben. Reg. 9 of 1833, s. 4. S. 2 (4) rep. in pt., Act 16 of 1874. S. 1 rep., s. 2 (4) am. and rep. in pt., Act 1 of 1903.	325

Chronological Table of Enactments Printed in this Volume—contd

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation	Page
I—BENGAL REGULATIONS—conold				
1829	1	The Bengal Revenue Commissioners Regulation, 1829	Short title given, Act 1 of 1903 Application restricted by Reg 3 of 1913 and Reg 3 of 1872 as amended by Reg 3 of 1899 S 9 (2) rep, in pt, Ben Reg 6 of 1831, s 8 S 9 (2) residue rep, Ben Reg 10 of 1831, s 4 Ss 3, 5 rep, Act 16 of 1874 Title and ss 1, 2 rep in pt, ss 6 to 8, 9 (1) 10 rep, Act 1 of 1903	327
„	17	The Bengal Sati Regulation, 1829	Short title given, Act 5 of 1897 Ss 4, 5 rep, Act 17 of 1862	331
1830	5	The Bengal Indigo Contracts Regulation, 1830	Short title given, Act 1 of 1903 S 3 rep, Act 16 of 1835 S 4 rep, Act 3 of 1857 S 2 rep, Act 8 of 1868 Title and preamble rep in pt, Act 12 of 1891	335
1833	9	The Bengal Land revenue (Settlement and Deputy Collectors) Regulation, 1833	Short title given, Act 1 of 1903 Ss 14, 15 rep, Act 10 of 1859 S 19 rep, Act 10 of 1873 S 4 rep, Act 16 of 1874 Title and s 1 am and rep in pt, s 2 rep, ss 3 8 24 25 rep in pt, ss 12, 13, 16 am, Act 1 of 1903 Ss 17, 18 and 25 rep, Act 10 of 1914 Application barred in Angul, Reg 3 of 1913 and in the Sonthal Parganas, Reg 3 of 1872 as amended by Reg 3 of 1899	337

Chronological Table of Enactments Printed in this Volume—con

1	2	3	4
Year.	No.	Short title.	How repealed or otherwise affected in Bihar and Crissa by legislation.

II.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN C

1836	10	The Bengal Indigo Con- tracts Act, 1836.	Short title given, Act 1 of 1903 . S. 5 rep., Act 8 of 1868. S. 1 rep., Act 14 of 1870. Formal words in ss. 2, 3, 4 rep., Act 1 of 1874. Application barred in Angul by Reg. of 1913, and in the Sonthal Pargana by Reg. 3 of 1872 as amended by Reg. of 1899.
„	21	The Bengal Districts Act, 1836.	Short title given, Act 1 of 1903 . Supplemented, Ben. Act 4 of 1864. Formal words rep., Act 16 of 1874. Am. and rep. in pt., Act 1 of 1903. Application barred in Angul, Reg. 3 of 1913.
1841	12	The Bengal Land-reve- nue Sales Act, 1841.	Short title given, Act 1 of 1903 . Ss. 3 to 35 rep., Act 1 of 1845. S. 1 rep., Act 14 of 1870. S. 2 rep. in pt., Act 16 of 1874. Application barred in Angul, Reg. 3 of 1913.
1847	9	The Bengal Alluvion and Diluvion Act, 1847.	Short title given, Act 1 of 1903 . Supplemented, and s. 7 rep., Ben. Act of 1868. S. 8 rep., Act 14 of 1870. Formal words in ss. 2, 3, 5, 6 and 9, and part of s. 4 rep., Act 16 of 1874. S. 1 rep. in pt., Act 12 of 1891. Ss. 4, 5, 6, 9 rep. in pt., Act 1 of 1903 Application barred in Angul, Reg. 3 of 1913.

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation	Page
II—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—contd.				
1848	20	The Bengal Landholders' Attendance Act, 1848	Short title given, Act 1 of 1903 Application barred in Angul, Reg 3 of 1913	351
"	25	The Forfeited Deposits Act, 1850	Short title given, Act 5 of 1897 S 1 rep, Act 14 of 1870 Title and preamble rep in pt, Act 12 of 1891 Application barred in Angul, Reg 3 of 1913	353
1853	6	The Rent Recovery Act, 1853	Short title given, Act 5 of 1897 S 10 rep, Ben Act 8 of 1865 S 9 rep, Act 12 of 1873 Preamble rep in pt, Act 12 of 1891 Application barred in Angul, Reg 3 of 1913	355
1855	32	The Bengal Embankment Act, 1855	Short title given, Act 1 of 1903 S 1 rep, Act 14 of 1870 Rep (except in the Sundarbans), Ben Act 6 of 1873 S 18 rep in pt, s 19 rep, Act 16 of 1874 S 21 rep in pt, Act 1 of 1903 Application barred in Angul by Reg 3 of 1913, and in the Sonthal Parganas by Reg 3 of 1872 as amended by Reg 3 of 1899	361
1855	37	The Sonthal Parganas Act, 1855	Short title given, Act 1 of 1903 Portion of title, preamble and s 1 superseded by Reg 3 of 1872, s 3 S 1 (I), rep in pt, Act 12 of 1891. S 3 rep in pt, Act 5 of 1893 New Sch substituted by Act 10 of 1857.	373

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.

II.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—*contd.*

1857	10	The Sonthal Parganas Act, 1857.	Short title given, Act 1 of 1903 . . . Preamble rep. in pt., Act 14 of 1870.	377
„	13	The Opium Act, 1857 .	Short title given, Act 1 of 1903 . . . S. 1 rep., Act 14 of 1870. S. 2 rep., Act 1 of 1878. Preamble rep. in pt., Act 12 of 1891. S. 3 am., Act 1 of 1911. Application barred in Angul, Reg. 3 of 1913.	381
1858	31	The Bengal Alluvial Land Settlement Act, 1858.	Short title given, Act 1 of 1903 . . . S. 3 rep., Act 1 of 1903. Application barred in Angul, Reg. 3 of 1913.	391
1859	5	The Bengal Ghâtwalí Lands Act, 1859.	Short title given, Act 1 of 1903 . . .	393
„	11	The Bengal Land-revenue Sales Act, 1859.	Short title given, Act 1 of 1903 . . . Supplemented, and ss. 45, 59 rep., Ben. Act 3 of 1862. Supplemented, s. 6 rep. in pt. and am., s. 25 rep., s. 27 am., Ben. Act 7 of 1868. S. 1 rep., Act 14 of 1870. S. 17 rep. in pt., Ben. Act 3 of 1881. S. 4 rep., s. 53 rep. in pt., Act 12 of 1891. Supplemented, Ben. Act 1 of 1895. [See next page.]	395

Chronological Table of Enactments Printed in this Volume—contd

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation	Page

II.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—contd.

1859	11	The Bengal Land revenue Sales Act, 1859— <i>contd</i>	S 18 (proviso) rep in pt, s 22 rep in pt and am, ss 32, 33 am, Sch B rep, Act 1 of 1903 Ss 19, 26, 32 and 49 am, Act 4 of 1914 Application barred in Angul, Reg 3 of 1913	
1876	6	The Chota Nagpur Encumbered Estates Act, 1876	S 2 am, Act 3 of 1909 S 2A inserted, Act 3 of 1909 S 2B ins, Act 4 of 1911 S 3 am, Act 5 of 1884, and added to, Act 3 of 1909 S 4, cl <i>fourthly</i> ins, Act 3 of 1909 and former cl <i>fourthly</i> re numbered cl <i>fifthly</i> , rep in pt, Act 3 of 1909 S 5 am, Act 3 of 1909 S 6 am, Act 4 of 1914 S 7 am, Act 5 of 1884 New clauses ins, Act 3 of 1909 Ss 9 and 10 am, Act 3 of 1909 S 10A ins, Act 3 of 1909 S 12 am, Act 5 of 1884, Act 3 of 1909, and Act 4 of 1911 S 12A ins, Act 3 of 1909 Ss 14A, 18A, 18B, 19A, 19B, 21A, 21B, ins, Act 3 of 1909 S 17 am, Act 5 of 1884 S 18 am, Act 3 of 1909 S 19 am and rep in pt, Act 4 of 1914, cl (aa) ins, Act 5 of 1884 S 23 am, and rep in pt, Act 3 of 1909	425

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.

II.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—contd.

1879	9	The Burma Coast-Lights Act, 1879.	S. 16 am., Act 13 of 1898	441
1881	7	The Bengal Cess (Amendment No. 1) Act, 1881.	Short title given, Act 1 of 1903 Application barred in Angul, Reg. 3 of 1913, and Sonthal Parganas, Reg. 3 of 1872 as am., Reg. 3 of 1899.	447
„	25	The Banki Laws Act, 1881.	S. 4 rep. in pt., Act 12 of 1891	449
1884	5	The Chota Nagpur Encumbered Estates (Amendment) Act, 1884.	Short title given, Act 1 of 1903 S. 8 (a) rep., Act 12 of 1891.	451
1885	8	The Bengal Tenancy Act, 1885.	Ss. 12 (2), 13 (1), (2) am., Act 8 of 1886. Supplemented, Ben. Act 3 of 1895, ss. 20, 28 to 32, 36 (c). Ss. 30 (a), 31, 39 (6), 52, Ch. X, and s. 119 am., ss. 31A, 31B ins., Ben. Act 3 of 1898. Certain transfers under ss. 12, 13, 17 or 18 validated, provisions of those sections as to fees am., s. 106 am., Ben. Act 1 of 1903. Ss. 1 (3), 3 (5), (10), 12 (2), (3), 13 (1), (2), 15, 16, 19, 22, 40, 52, 58, 67, 69, 75, 101 (2), 102, Ch. X, Pt. II (heading), ss. 104, 106, 107, 108, 109, 109A, 111, 112, Ch. XI (heading), ss. 116, 120, 148, 153, 158 (1), 161, 168 (1), 169 (1), 170, 174 (2), 178, 189, 192, Sch. III am.; ss. 14, 45 rep., Ch. IVA (ss. 18A to 18C), ss. 40A, 102A, 105A, 108A, 109B, 109C, 111B, 115A, 147A, 147B, 148A, 153A, Ch. XIII A (s. 158A), ss. 158B, 186A, 188A ins.; s. 114 rep. in pt. and am.; ss. 149, 150 rep. in pt. (in Western Bengal including Bihar), Ben. Act 1 of 1907.	461

[See next page.]

Chronological Table of Enactments Printed in this Volume—contd

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation	Page
II—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—contd.				
1885	8	The Bengal Tenancy Act, 1885— <i>contd</i>	Ss 88 104H (g), 105 (2) am, ss 103B 109D, ins (in Western Bengal), Ben Act 1 of 1907 New Cl 13A, B and O Act 4 of 1914 Ss 158B, 167 (1), 171 (1) and 172, am, B and O Act 4 of 1914 Application barred in Angul, Reg 3 of 1913	
1886	8	The Bengal Tenancy (Amendment) Act, 1886	Short title given, Act 1 of 1903	571
1887	12	The Bengal, Agra and Assam Civil Courts Act, 1887	S 23 (c) rep, Act 7 of 1889 S 23 (b) rep Act 8 of 1890 S 2 rep in pt, Act 12 of 1891 Ss 1 (1), 25 am, s 8 (1) rep in pt, Act 16 of 1911 Ss 4 6 (1) 7 (2) am, s 5 rep and proviso added to ss 19 (2), 25 and 34 (1), Act 4 of 1914 Application barred in Angul, Reg 3 of 1913	575
1892	4	The Court of Wards Act (Bengal) Amendment Act, 1892	Short title given, Act 5 of 1897 S 9 rep, Act 5 of 1897 S 1 rep in pt, Act 1 of 1903 Ss 5, 11 virt rep— (in Western Bengal including Bihar and Orissa) Ben Act 1 of 1906, ss 2 6	589
"	5	The Bengal Military Police Act, 1892	Application barred in Angul, Reg 3 of 1913	591
1893	2	The Porahat Estate Act, 1893	.	599
"	11	The Tributary Mahals of Orissa Act 1893	Preamble and s 1 rep in pt, s 2 and Sch rep, Act 1 of 1903	601

Chronological Table of Enactments Printed in this Volume—contd.

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bihar and Orissa by legislation.	Page.

II.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—*contd.*

1897	5	The Amending Act, 1897.	Title, preamble, s. 1 rep. in pt., ss. 2 (1), 3, Sch. 1 rep., Act 1 of 1903. Sch. II rep.— (as to Act 1 of 1882 and Ben. Act 1 of 1889), Act 6 of 1901, (as to Ben. Act 1 of 1883)— (in Western Bengal including Bihar and Orissa), Ben. Act 5 of 1909. Sch. am.— (as to Act 13 of 1875), Act 10 of 1914.	603
1901	6	The Assam Labour and Emigration Act, 1901.	Ss. 91, 218 am., Act 11 of 1908 . . . Application barred in Angul, Reg. 3 of 1913. Ss. 2 (1), 64, 67 (1), 92, heading of Ch. V, s. 93 (2), 172, Act 8 of 1915. Ch. 6A ins., Act 8 of 1915. Ss. 2 (1), 12, 91, 163, 171 and 174 rep. in pt., Act 8 of 1915. Ss. 90, 165 to 168, 175 and Ch. 3, rep. Act 8 of 1915.	621
1903	1	The Repealing and Amending Act, 1903.	Rep. in pt.— (as to Ben. Reg. 9 of 1816), Ben. Act 1 of 1905 ; (as to Act 13 of 1889), Act 15 of 1910. Title am., Act 10 of 1914.	681
1908	11	The Assam Labour and Emigration (Amendment) Act, 1908.	....	717
1911	1	The Opium (Amendment) Act, 1911.	....	719

Chronological Table of Enactments Printed in this Volume—concl'd.

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected in Bihar and Orissa by legislation	Page

II.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—concl'd.

1911	16	The Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911.	.	721
1912	7	The Bengal, Bihar and Orissa and Assam Laws Act, 1912	.	723
1914	4	The Decentralization Act, 1914	.	731
„	10	The Repealing and Amendment Act, 1914	.	747
1915	8	The Assam Labour and Emigration (Amendment) Act, 1915	..	767

**III.—REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870
(33 & 34 VICT., c 3)**

1872	3	The Sonthal Parganas Settlement Regulation, 1872	Ss 3, 9 am, Reg 3 of 1886 Reg 3 of 1899 S 5 am, Reg 3 of 1908 S 5A ins, Reg 3 of 1908 S 6 added to, Reg 5 of 1893 S 8 rep in pt, Reg 3 of 1908 S 11 am, Reg 3 of 1908 S 13 added to, Reg 3 of 1908 S 24 am, rep in pt, Reg 3 of 1908 S 25 am, and s 25A ins, Reg 3 of 1908 Ss 26, 27, 28 am, Reg 3 of 1908 New Sch, Reg 3 of 1899	777
1886	2	The Sonthal Parganas Rent Regulation	Preamble rep in pt, Act 1 of 1903 Ss 19A to 19F, 25A ins, Reg 3 of 1907 S 22 rep in pt, Act 1 of 1903	811
1893	5	The Sonthal Parganas Justice Regulation, 1893	S 4 am, Reg 3 of 1899 and Reg 4 of 1912	823

Chronological Table of Enactments Printed in this Volume—concl'd.

1	2	3	4	5
Year.	No.	Short title	How repealed or otherwise affected in Bihar and Orissa by Legislation.	Page.

III.—REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870
(33 & 34 VICT., C. 3)—*concl'd.*

1899	3	The Sonthal Parganas Justice and Laws Regulation.	....	833
1904	2	The Sonthal Parganas Settlement Regulation, 1904.	....	835
1903	3	The Sonthal Parganas Rent (Amendment) Regulation, 1907.	....	837
1908	3	The Sonthal Parganas Settlement (Amendment) Regulation, 1908.	....	841
1910	4	The Sonthal Parganas Rural Police Regulation, 1910.	....	849
1912	4	The Sonthal Parganas Justice (Amendment) Regulation, 1912.	....	857
1913	3	The Angul Laws Regulation.	....	863

THE BIHAR AND ORISSA CODE.

VOLUME I.

BENGAL REGULATIONS, LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AND REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 & 34 VICT., c. 3).

PART I.—BENGAL REGULATIONS IN FORCE IN THE PROVINCE OF BIHAR AND ORISSA

BENGAL REGULATION 1 OF 1793

(THE BENGAL PERMANENT SETTLEMENT REGULATION, 1793)

CONTENTS.

SECTION

1 Preamble

PROCLAMATION

- 2 Art I—Decennial settlement declared conditionally permanent by original Regulations
- 3 Art II—Power to declare *jama* assessed upon lands under those Regulations, fixed for ever
- 4 Art III—*Jama* assessed upon lands of proprietors with whom settlement concluded, fixed for ever
- 5 Art IV—*Jama* hereafter agreed to by proprietors whose lands are held *khas*, or let in farm, fixed for ever
- 6 Art V—*Jama* of lands belonging to Government, but transferred to individuals, fixed for ever
- 7 Art VI—Assessment in former times liable to variations at discretion of Government
- Motives of Court of Directors for abolishing usage and fixing assessment
- { Proprietors expected to improve estates,
- { Conduct to be observed by proprietors towards dependent *talukdars* and *rayats*
- No claims for remissions or suspensions
- Sale of land for arrears

The Bengal Permanent Settlement [Ben. Reg. 1 of 1793.]
Regulation, 1793.

SECTION.

8. Art. VII.—*First*.—Regulations for protection of *raiyats*, etc.

Second.—Right of Government to all internal duties.

Third.—And to *jama* on alienated lands.

Fourth.—Resumption of police allowances to proprietors.

Fifth.—Estates of disqualified proprietors not liable to sale for arrears.

9. Art. VIII.—Proprietors may transfer lands without sanction of Government.
 Proviso.

10. Art. IX.—Rules for apportioning fixed *jama* on portions of estates in event of sale or transfer, and on shares of estates.

11. Art. X.—Adjusting *jama* of lands held *khas* or *let* in farm.

BENGAL REGULATION 1 OF 1793

(THE BENGAL PERMANENT SETTLEMENT REGULATION, 1793) [1]

(1st May, 1793.)

A Regulation for enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793.

1. The following articles of the Proclamation relative to the limita-^{Preamble}
tion of the public demand upon the lands, addressed by the Governor
General in Council to the *zamindars*, independent *talukdars* and other
actual proprietors of land paying revenue to Government, in the
Provinces of [*Bengal*], Bihar and Orissa, are hereby enacted into a
Regulation, which is to have force and effect from the 22nd March,
1793, the date of the Proclamation.

PROCLAMATION.

2. *Article I.*—In the original Regulations for the decennial settle- Decenn
ment of the public revenues of [*Bengal,*] Bihar and Orissa, passed for settle
ment of the public revenues of [*Bengal,*] Bihar and Orissa, passed for settle

[¹] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch III—see *post*, p 608

LOCAL EXTENT—This Regulation was passed for the whole of the former Province of Bengal—*see* **as** 1 to 3

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868 78, Ed 1909, p 453), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3 to be in force in the districts of Hazaribagh and Manbhum, and Pargana Dhalbhum, in the District of Singhbhum, in the Chota Nagpur Division, see Vol IV, Part III

vide Vol IV, Part IV
Angul District, by the Angul Laws

For a comprehensive view of the several enactments relating to land revenue which are printed in this Code, see the head "Land revenue" and cross references therefrom, in the Index at the end of Vol. IV. Other enactments on the subject which are in force in Bengal are—

- [illegible]

- | | | | | | | |
|-----|---|---|---|---|--------|-------------------|
| (5) | | | | | ditto, | 1887 97, Ed 1909. |
| (6) | . | . | . | . | ditto, | 1904 09, Ed 1903. |

Courts)

(Secs. 3-5.)

those Provinces, respectively, on [the 18th September, 1789,] the 25th November, 1789, and the 10th February, 1790, it was notified to the proprietors of land, with or on behalf of whom a settlement might be concluded, that the *jama* assessed upon their lands under those Regulations would be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance should meet with the approbation of the Honourable Court of Directors for the affairs of the East India Company, and not otherwise.

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3. *Article II.*—The Marquis Cornwallis, Knight of the Most Noble Order of the Garter, Governor General in Council, now notifies to all *zamindars*, independent *talukdars* and other actual proprietors of land paying revenue to Government, in the provinces of [*Bengal*,] Bihar and Orissa, that he has been empowered by the Honourable Court of Directors for the affairs of the East India Company to declare the *jama*, which has been or may be assessed upon their lands under the Regulations above-mentioned, fixed for ever.

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4. *Article III.*—The Governor General in Council accordingly declares to the *zamindars*, independent *talukdars* and other actual proprietors of land with or on behalf of whom a settlement has been concluded under the Regulations above-mentioned, that at the expiration of the term of the settlement no alteration will be made in the assessment which they have respectively engaged to pay, but that they and their heirs and lawful successors will be allowed to hold their estates at such assessment for ever.

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5. *Article IV.*—The lands of some *zamindars*, independent *talukdars* and other actual proprietors of land, having been held *khas*, or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations above-mentioned, the Governor General in Council now notifies to the *zamindars*, independent *talukdars* and other actual proprietors of land whose lands are held *khas* that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been or may be required of them, in conformity to the Regulations above-mentioned, and that no alteration shall afterwards be made in that assessment but that they, and their heirs and lawful successors, shall be permitted to hold their respective estates at such assessment for ever.

and he declares to the *zamindars*, independent *talukdars* and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their

(Secs. 6-7.)

lease, and the Governor General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be reinstated, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever.

6. *Article V.*—In the event of the proprietary right in lands that are, or may become, the property of Government being transferred to individuals, such individuals, and their heirs and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred for ever.

Jama & lands belonging to Government, but transferred to individuals, fixed for ever.

7. *Article VI.*—It is well known to the *zamindars*, independent *talukdars* and other actual proprietors of land, as well as to the inhabitants of [*Bengal*,] Bihar and Orissa, in general, that from the earliest times until the present period the public assessment upon the land has never been fixed, but that, according to established usage and custom, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the *rayats*.

Assessment in former times liable to variation at discretion of Government.

The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the *zamindars*, independent *talukdars* and other actual proprietors of land with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country.

Motives of Court of Directors for abolishing usage and fixing assessment.

The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates.

Proprietors expected to improve estates.

To discharge the revenues at the stipulated periods without delay or evasion and to conduct themselves with good faith and moderation

Conduct to be observed by

(Sec. 8.)

towards their dependent *talukdars* and *raiyats*, are duties at all times indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued.

The Governor General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent *talukdars* and *raiyats*, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them.

He further expects that, without deviating from this line of conduct, they will regularly discharge the revenue in all seasons; and he accordingly notifies to them, that, in future, no claims or application for suspensions or remissions, on account of drought, inundation or other calamity of seasons, will be attended to, but that in the event of any *zamindar*, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors, failing in the punctual discharge of the public revenue which has been or may be assessed upon their lands under the above-mentioned Regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place.

[1] 8. *Article VII.*—To prevent any misconstruction of the foregoing articles the Governor General in Council thinks it necessary to make the following declarations to the *zamindars*, independent *talukdars* and other actual proprietors of land:—

First.—It being the duty of the ruling power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent *talukdars*, *raiyats* and other cultivators of the soil; and no *zamindar*, independent *talukdar* or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay.

Second.—The Governor General in Council having, on the 28th July, 1790, directed the *sâir* collections to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sustained by them in consequence of this abolition; and he now declares that, if he

[1] For a restriction upon section 8, see the Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793 (19 of 1793), s. 6, *post*, p. 56.

(Sec. 8.)

should hereafter think it proper to re-establish the *sd*ir collections or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

Third.—The Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles. and to *jama* of police allowances on alienated lands.

The assessment so imposed will belong to Government and no proprietor of land will be entitled to any part of it.

Fourth.—The *jama* of those *zamindars*, independent *talukdars* and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances which have been made to them in the adjustment of their *jama*, for keeping up *thanas* or police establishments, and also of the produce of any lands which they may have been permitted to appropriate for the same purpose, and the Governor General in Council reserves to himself the option of resuming the whole or part of such allowances, or produce of such lands, according as he may think proper in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country. Resumption of police allowances to proprietors.

The Governor General in Council, however, declares that the allowances or produce of lands which may be resumed will be appropriated to no other purpose but that of defraying the expense of the police; and that instructions will be sent to the Collectors not to add such allowances, or the produce of such lands, to the *jama* of the proprietors of land, but, to collect the amount from them separately.

Fifth.—Nothing contained in this proclamation shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first Article of the Regulations regarding disqualified landholders, passed on the 15th July, 1791, liable to sale for any arrears [1] which have accrued or may accrue on the fixed *jama* that has been or may be assessed upon their lands under the above mentioned Regulations for the decennial settlement: provided that such arrears have accrued or may accrue during the time that they have been or may be dispossessed of the management of their lands under the said Regulations of the 15th July, 1791. Estate of disqualified proprietors not liable to sale for arrears

[1] But see the Court of Wards Act, 1273 (Ben. in 8 of 1273), s. 23A for the purpose of this Code, which authorizes the sale of estates of the said proprietors for arrears accrued while the estates were under the charge of the Court of Wards.

(Secs. 9-10.)

It is to be understood, however, that whenever all or any of the descriptions of disqualified landholders, specified in the first Article of the last-mentioned Regulations, shall be permitted to assume or retain the management of their lands, in consequence of the ground of their disqualification no longer existing, or of the Governor General in Council dispensing with, altering or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the fixed *jama* that has been or may be assessed thereon, from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first Article of the Regulations of the 15th July, 1791, are and will be held answerable, for any arrears that are or may become due from them, on the fixed *jama* which they, or any persons on their behalf, have engaged or may engage to pay, under the above-mentioned Regulations, for the decennial settlement.

9. *Article VIII.*—That no doubt may be entertained whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the *zamindars*, independent *talukdars* and other actual proprietors of land that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise, their proprietary rights in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer, and that all such transfers will be held valid:

o. Provided that they be conformable to the Muhammadan or the Hindu laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter Code), and that they be not repugnant to any Regulations now in force, which have been passed by the British administrations, or to any Regulations that they may hereafter enact.

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[¹] 10. *Article IX.*—From the limitation of the public demand upon the lands, the net income, and consequently the value (independent of increase of rent obtainable by improvements), of any landed property,

[¹] Section 10 is supplemented by the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 8, *post*, p. 91; and its application is extended by—
the Bengal Inheritance Regulation, 1793 (11 of 1793), s. 4, *post*, p. 45, and
the Bengal Leases and Land-revenue Regulation, 1812 (18 of 1812), s. 3 (2), *post*, p. 142.

So much of s. 10 of the present Regulation as relates to the adjustment of the Government *jama* on lands exposed to public sale in satisfaction of decrees was repealed by Act 4 of 1846, s. 1.

(Sec. 10.)

for the assessment on which a distinct engagement has been or may be entered into, between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed *jama* assessed upon it (which, agreeable to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred) with the whole of its produce, allowing for the charges of management.

estates in
event of sale
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But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one, or in two or more lots, or of its being joint property, and a division of it being made amongst the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed *jama* with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained.

The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessments in the several cases above-mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment were the apportioning of it, in any of the cases above specified, to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector^[1] of the revenue of the *zila* in which the lands may be situated, or such other officer as Government may in future prescribe, in order that the fixed *jama*, assessed upon the whole estate, may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share and the *jama* charged thereon may be entered upon the public registers, and that separate engagements for the payment of the *jama* assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land.

And the Governor General in Council declares that, if the parties to such transfers or divisions shall omit to notify them to the Collector^[1]

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

(Sec. 10.)

of the revenue of the *zila* or such other officer as may be hereafter prescribed, for the purposes before-mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed *jama* assessed upon it, in the same manner as if no such transfer or division had ever taken place.

The Governor General in Council thinks it necessary further to notify, in elucidation of the declarations contained in this Article (which are conformable to the principles of the existing Regulations), that if any *zamindar*, independent *talukdar* or other actual proprietor of land shall dispose of a portion of his or her lands as a dependent *taluk*, the *jama* which may be stipulated to be paid by the dependent *talukdar* will not be entered upon the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever, nor will it be allowed, in any case, to effect the rights or claims of Government, any more than if it had never taken place.

First.—In the event of the whole of the lands of a *zamindar*, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations above-mentioned, being exposed to public sale by the order of the Governor General in Council, for the discharge of arrears of assessment, or in consequence of the decision of a Court of Justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce^[1] as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce.^[1]

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold them at the *jama* at which they may be so purchased, for ever.

Second.—When a portion of the lands of a *zamindar*, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations before-mentioned, shall be exposed to public sale, by order of the Governor General in Council, for the liquidation of arrears of assessment,

[1] As to the meaning of "actual produce," see the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 8, *post*, p. 91.

(Sec. 10.)

or pursuant to the decision of a Court of Justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce [1] as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce.[1]

If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce[1] as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce.[1]

The actual produce[1] of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his or her or their heirs or successors, will be allowed to hold them at the *jama* at which they may be so purchased, for ever: and the remainder of the public *jama*, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his or her possession, will continue unalterable for ever.

Third.—When a *zamindar*, independent *talukdar* or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount which shall bear the same proportion to its actual produce[1] as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce.[1]

This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred, and his or her or their heirs and lawful successors, shall hold them at the *jama* at which they may be so transferred, for ever: and where only a portion of such estate shall be transferred, the remainder of the public *jama* which will consequently

[1]As to the meaning of "actual produce," see the Bengal Land revenue Assessment Regulation, 1801 (1 of 1801), s. 8, post, p. 91.

(Sec. 11.)

be payable by the former proprietor of the whole estates [¹] on account of the lands that may remain in his or her possession shall be continued unalterable for ever.

Fourth.—Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed *jama* assessed upon the whole of the estate divided may bear to the whole of its actual produce.^[2]

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations or such other Regulations as the Governor General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the *jama* which may be so assessed upon them, for ever.

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^{as} or
^{rm.} [³]11. *Article X.*—The following rules are prescribed respecting the adjustment of the assessment on the lands of *zamindars*, independent *talukdars* and other actual proprietors of land, whose lands are or may be held *khas* or let in farm in the event of their being disposed of by public sale, or transferred, by any private act of the proprietor, or of their being joint property, and a division of them taking place amongst the proprietors.

First.—If the whole, or a portion of the lands of a *zamindar*, independent *talukdar* or other actual proprietor of land who may not have agreed to the payment of the assessment proposed to him or her under the Regulations above-mentioned, and whose lands are or may be held *khas* or let in farm, shall be exposed to public sale in one or in two or more lots (pursuant to the decree of a Court of Justice), such lands, if *khas*, shall be disposed of at whatever assessment the Governor General in Council may deem equitable, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold the lands at the assessment at which they may be so purchased, for ever.

If the lands, at the time of their being exposed to sale, shall be held in farm, and shall be put up in one or two or more lots, they shall be disposed of under the following conditions:—

The purchaser or purchasers shall receive, during the unexpired part of the term of the lease of the farmer, whatever such proprietor shall have

[¹]Sic. in Clarke.

[²]As to the meaning of "actual producé," see the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 8, *post*, p. 91.

[³]The application of s. 11 is extended by the Bengal Inheritance Regulation, 1793 (11 of 1793), s. 4, *post*, p. 45.

So much of s. 11 as relates to the adjustment of the Government *jama* on lands exposed to public sale in satisfaction of decrees was replaced by Act 4 of 1846, s. 1.

(Sec. 11.)

been entitled to receive, in virtue of his or her proprietary rights, on account of the land so purchased, and such purchaser or purchasers shall engage to pay, at the expiration of the lease of the farmer, such assessment on account of the lands as Government may deem equitable.

The sum to be received by the purchaser or purchasers during the unexpired part of the term of the lease of the farmer, and the *jama* to be paid by such purchaser or purchasers after the expiration of the lease, shall be specified at the time of the sale, and such purchaser or purchasers, and his or her or their heirs and lawful successors, shall be allowed to hold the lands at the assessment at which they may be so purchased, for ever.

Second.—If a *zamindar*, independent *talukdar* or other actual proprietor of land, whose lands are or may be held *khas* or let in farm, shall transfer by private sale, gift or otherwise, the whole or a portion of his or her lands in one or in two or more lots, the person or persons to whom the lands may be so transferred shall be entitled to receive from Government (if the lands are held *khas*), or from the farmer (if the lands are let in farm), the *malikana* to which the former proprietor was entitled on account of the land so transferred.

Persons to whom such lands may be so transferred will stand in the same predicament as the *zamindars*, independent *talukdars* or other actual proprietors of land mentioned in the fourth Article, whose lands are held *khas*, or have been let in farm, in consequence of their refusing to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that Article are to be held applicable to them.

Third.—In the event of a division being made of lands that are or may become the joint property of two or more persons, and which are or may be held *khas* or let in farm, the proprietors of the several shares will stand in the same predicament, with regard to their respective shares, as the *zamindars*, independent *talukdars* and other actual proprietors of land specified in the fourth Article, whose lands have been let in farm or are held *khas* in consequence of their having refused to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that Article are to be considered applicable to them.

BENGAL REGULATION 2 of 1793

(THE BENGAL LAND REVENUE REGULATION, 1793)

CONTENTS.

SECTION

- 1 Preamble
- 2 (*Repealed*)
- 3 Collectors of Revenue
- 4 Collectors subject to Board of Revenue
- 5 Seals of Collectors
- 6 Collectors to keep diary
- 7 Duties of Collectors
- 8 Nature of duties
- 9 Native officers to obey orders of Collector
- 10 Collectors not to employ private servants in public matters
- 11 Appointment and removal of Native cash keepers
- 12 (*Repealed*)
- 13 Appointment and removal of Native servants
- 14 In absence of Collector senior Assistant to officiate
- 15 Collectors and their officers prohibited being concerned extra officially in revenues
- 16 *Bond fide* purchases of land at private sale by Collector's officers, etc
- 17 (*Repealed*)
- 18 Collectors and their Assistants prohibited from trading
- 19 (*Repealed*)
- 20 Collectors to keep records
- 21 to 23 (*Repealed*)
- 24 Collectors not to exercise authority beyond limits of their *zilas* without orders
- 25 Rule with regard to receipts
- 26 Register of receipts for salaries, etc.
- 27 to 32 (*Repealed*)
- 33 In what cases Board may require personal attendance of Natives.
- 34, 35 (*Repealed*)
- 36 Powers of Board as to settlement of lands held *khas*,
- 37 Security for payment of revenue
- 38 Remissions
- 39 Settlements to be made by Collectors
- 40 Procedure on settlement being concluded
- 41 Collection of revenue
- 42 Temporary suspensions
- 43 Remissions of balances
- 44 (*Repealed*)
- 45 Duty of Board to furnish accounts, etc
- 46 to 70 (*Repealed*)

BENGAL REGULATION 2 OF 1793.

(THE BENGAL LAND-REVENUE REGULATION, 1793) [1]

(1st May, 1793)

A Regulation for abolishing the Courts of *Mal Adalat* or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of *Diwani Adalat*; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.

1. In the British territories in Bengal the greater part of the Preamble
materials required for the numerous and valuable manufactures, and most of the other principal articles of export, are the produce of the lands: it follows that the commerce, and consequently the wealth of the country, must increase in proportion to the extension of its agriculture -

But it is not for commercial purposes alone that the encouragement of agriculture is essential to the welfare of these provinces

The Hindus, who form the body of the people, are compelled, by the dictates of religion, to depend solely upon the produce of the lands for subsistence; and the generality of such of the lower orders of the natives as are not of that persuasion are, from habit or necessity, in a similar predicament.

The extensive failure for destruction of the crops that occasionally arises from drought or inundation is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch III—see *post*, p 608

LOCAL EXTENT.—This Regulation was passed for the former Province of Bengal—see paragraph 1 of the Preamble.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868 78, Ed 1909, p 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the Districts of Hazaribagh, Ranchi, Palamanu and Manbhum, and parganna Dhalbhum, in the District of Singhbhoom, in the Chota Nagpur Division, see Vol IV, Part III

Sections 7 and 8 (10) are in force in the Angul District, see Vol IV, Part IV, but the rest of the Regulation is barred in that district, by the Angul Laws Regulation, 1913 (17 of 1913) s 3 (1) (a) s 4 = 864

the Sonthal Parganas by the Sonthal Act, section 3 (2), as amended by the Sonthal Act, 1909, section 3 *post*, p 832
is requires the appointment of *diwans*
the *diwans*, or relates in any other
repealed by Bengal Regulation 15 of 1909
were repealed by the Repealing Act, 1909
foot notes, *post*

(Sec. 1.)

soil and the manufacturers, from whose labours the country derives both its subsistence and wealth.

Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity, the country must necessarily continue subject to these calamities until the proprietors and cultivators of the lands shall have the means of increasing the number of the reservoirs, embankments and other artificial works, by which, to a great degree, the untimely cessation of the periodical rains may be provided against, and the lands protected from, inundation; and as a necessary consequence the stock of grain in the country at large shall always be sufficient to supply those occasional, but less extensive, deficiencies in the annual produce which may be expected to occur notwithstanding the adoption of the above precautions to obviate them.

To effect these improvements in agriculture, which must necessarily be followed by the increase of every article of produce, has accordingly been one of the primary objects to which the attention of the British Administration has been directed in its arrangements for the internal government of these provinces.

As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed for ever.

These measures have at once rendered it the interest of the proprietors to improve their estates, and given them the means of raising the funds necessary for that purpose.

The property in the soil was never before formally declared to be vested in the landholders, nor were they allowed to transfer such rights as they did possess, or raise money upon the credit of their tenures, without the previous sanction of Government.

With respect to the public demand upon each estate, it was liable to annual or frequent variation at the discretion of Government.

The amount of it was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the *rai-yats* or tenants for each *bigha* of land in cultivation, of which, after deducting the expenses of collection, ten-elevenths were usually considered as the right of the public and the remainder the share of the landholder.

Refusal to pay the sum required of him was followed by his removal from the management of his lands, and the public dues were either let in farm or collected by an officer of Government, and the above-mentioned share of the landholder, or such sum as special custom, or the

(Sec. 1.)

orders of Government, might have fixed, was paid to him by the farmer or from the public treasury:

When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate, and moneyed men had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself, was so precarious.

The same causes, therefore, which prevented the improvement of land depreciated its value.

Further measures, however, are essential to the attainment of the important object above stated.

All questions between Government and the landholders respecting the assessment and collection of the public revenue, and disputed claims between the latter and their *rai-yats*, or other persons concerned in the collection of their rents, have hitherto been cognizable in the Courts of *Mál Adálat* or Revenue Courts.

The Collectors of the Revenue preside in these Courts as Judges, and an appeal lies from their decision to the Board of Revenue, and from the decrees of that Board to the Governor General in Council in the Department of Revenue.

The proprietors can never consider the privileges which have been conferred upon them as secure, whilst the Revenue officers are vested with these judicial powers.

Exclusive of the objections arising to these Courts from their irregular, summary, and often *ex parte* proceedings, and from the Collectors being obliged to suspend the exercise of their judicial functions whenever they interfere with their financial duties, it is obvious that, if the Regulations for assessing and collecting the public revenue are infringed, the Revenue-officers themselves must be the aggressors, and that individuals who have been wronged by them in one capacity can never hope to obtain redress from them in another.

Their financial occupations equally disqualify them for administering the laws between the proprietors of land and their tenants.

Other security, therefore, must be given to landed property and to the rights attached to it before the desired improvements in agriculture can be expected to be effected.

Government must divest itself of the power of infringing, in its executive capacity, the rights and privileges which, as exercising the legislative authority, it has conferred on the landholders.

(Secs. 2-3.)

The Revenue-officers must be deprived of their judicial powers.^[1]

All financial claims of the public, when disputed under the Regulations, must be subjected to the cognizance of Courts of Judicature, superintended by Judges who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public and the proprietors of land, and also between the latter and their tenants.

The Collectors of the Revenue must not only be divested of the power of deciding upon their own acts, but rendered amenable for them to the Courts of Judicature, and collect the public dues subject to a personal prosecution for every exaction exceeding the amount which they are authorized to demand on behalf of the public, and for every deviation from the Regulations prescribed for the collection of it.

No power will then exist in the country by which the rights vested in the landholders by the Regulations can be infringed or the value of landed property affected.

Land must, in consequence, become the most desirable of all property, and the industry of the people will be directed to those improvements in agriculture which are as essential to their own welfare as to the prosperity of the State.

The following rules, being the rules passed for the guidance of the Collectors and the Board of Revenue, on the 8th June, 1787, and the 25th April, 1788, with alterations adapted to the principles above stated, have been accordingly enacted.

2. (*Abolition of Courts of Mal Adalat.*) *Rep. by the Repealing Act, 1873 (12 of 1873).*

3. The collection of the revenue payable to Government from the estates in each *zila* is to be committed, as heretofore, to a civil covenanted servant of the Company, who is to be styled Collector of the Revenue^[2] of the *zila* to which he may be appointed * * * ^[3].

[1] This clause, and some of the preceding clauses of this preamble, are obsolete, in consequence of the repeal of parts of this Regulation by later enactments which are noted *post*.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267. As to the general powers of a Collector, see the Board's Rules 1902, p. 27. As to his general duties, see its pp. 55 to 58. As to his tours see p. 58.

As to the inspection of Offices by Collectors see the Inspection Manual, 1902, pp. 1, 3, 4.

[3] The second sentence of s. 3, as to oaths, which was repealed by the Repealing Act, 1873 (12 of 1873), is omitted.

(Secs 48)

4 The Collectors^[1] are to correspond with the Board of Revenue^[2] and to conform to all instructions with which they have been furnished by that Board and that are or may not be altered or revoked by this or any other Regulation * * * ^{Collectors subject to Board of Revenue} and also to all instructions which the Board of Revenue^[2] may hereafter transmit to them

5 The Collectors^[1] of the several *zilas* are to use a circular seal one inch and a half in diameter ^{Seals of Collectors}

The seals of the Collectors^[1] in [*Bengal*] and Orissa are to bear an inscription to the following effect, in the Bengal and Persian characters and languages, and the seals of the Collectors in Bihar a similar inscription in the Persian character and language and the Hindustani language and Nagri character "The seal of the Collector^[1] of the *zila* of "

6 The Collectors^[1] are to keep a regular diary of their official transactions, either in the English Persian or Bengali language, recording and attesting them with their official signature at the time they may take place ^{Collectors to keep diary}

7 The duties prescribed in the following section are to be performed by the Collectors,^[1] under the superintendence of the Board of Revenue ^{Duties of Collectors} ^[2]

8 *First*—To collect the amount of the fixed revenue assessed upon the land of the *zamindars* independent *talukdars* or other actual proprietors of land with or on behalf of whom a settlement has been or may be concluded ^{Nature of duties}

Second—To collect the stipulated annual revenue from the farmers of estates let in farm

Third—To levy the rents and revenue from estates held *khas*

Fourth—To make the future settlement of *khas* or farmed estates, agreeably to the regulations and instructions which they may receive for that purpose

Fifth—To prosecute for the recovery of the dues of Government from lands, of whatever description, held exempt from the payment of revenue under illegal or invalid tenures

[1] As to the exercise of functions of Collectors by other officers see the Bengal Land revenue Settlement Regulation 1822 (7 of 1822) s 35 *post* p 267

[2] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot note to the Bihar and Orissa Board of Revenue Act 1913 (B and O Act 1 of 1913) s 3 in Vol III of this Code

[3] The words and figures published in the manner directed in Regulation 41 1793 which were repealed by the Repealing Act 1874 (16 of 1874) are omitted

(Sec. 9.)

Sixth.—To pay the pensions and allowances included in the public revenue and the pensions and compensations granted in consequence of the abolition of the *sáir*.

Seventh.—To execute the instructions which may be issued to them by the Court of Wards regarding disqualified landholders and their estates.

Eighth.—To superintend the division of landed property paying revenue to Government which may be ordered to be divided into two or more distinct estates.

Ninth.—To apportion the public revenue on lands ordered to be disposed of at public sale for the discharge of arrears of revenue.

Tenth.—To collect the tax on spirituous liquors and intoxicating drugs or articles.[¹]

Eleventh and Twelfth.—(To procure lands for native invalid soldiers; to collect the police tax.) Rep. by the Repealing Act, 1874 (16 of 1874).

Thirteenth.—To perform the above, and all other duties, according to the rules that have been or may be prescribed to them * * *.[²]

Fourteenth.—To transmit such annual, monthly or other accounts as they now furnish, or may be hereafter required to send by the Board of Revenue[³] or any officer under that Board empowered to require such accounts.

Fifteenth.—To conform to all special orders that have been or may be issued to them by the Board of Revenue,[³] or by public officers empowered to issue such orders.

9. * * [⁴] all Native officers under the Collector[⁵] are to act agreeably to his orders and such rules as he may prescribe.

They are not to perform any act of authority without his sanction or authority, under pain of being fined in a sum not exceeding six months'

[¹] For the enactments relating to Excise in force in Bihar and Orissa, see the Bengal Excise Act, 1909 (Ben. Act. 5 of 1909).

[²] The words and figures "by any Regulation published in the manner directed in Regulation 41, 1793," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[³] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, printed in Vol. III of this Code.

[⁴] The words "The *diwan* and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[⁵] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 257.

(Secs 10 13)

salary, or of being dismissed from their offices by the Collector,[¹] the Board of Revenue[²] or the Governor General in Council, and also of being sued in the Court of Judicature for damages by any person who may consider himself aggrieved by such unauthorized act

10. The Collectors[¹] are prohibited from employing, directly or indirectly, their private servants, whether *banyas* or others, in the discharge of any part of their public duties, it being required that, in all matters relating to the trust committed to them, they act as the only empowered agents of Government

Collectors not to employ private servants in public matters

This prohibition, however, is not meant to restrict them from occasionally employing their assistants * * [³] or their inferior public servants in the cases and in the manner in which they are authorized to make use of their agency

11. The *khazanchi* or Native cash keeper in each *zila* is to be nominated by the Collector,[¹] who is to take good and sufficient security from him for the faithful discharge of his trust, and for making good all deficiencies in the public money that may be committed to his charge

Appointment and removal of Native cash keepers.

The Collector[¹] is to transmit the names of the person whom he may nominate to the office of *khazanchi*, and of his surety, with a copy of the engagement executed by the latter, to the Board of Revenue [²] but the person so nominated shall not be considered as appointed until the Board of Revenue[²] shall have signified their approbation both of him and his surety

The Native cash keeper so appointed shall not be removed but for misconduct, or other sufficient cause, proved to the satisfaction of the Board of Revenue,[²] and he and the Collector[¹] shall be held jointly and severally responsible to Government for the public money committed to their charge

12. (*Form to be observed in issuing public money*) Rep by Act 25 of 1854

13. [⁴] *The appointment and dismissal of all Native public servants on the establishments of the Collectorships (the keepers of the Native records and the khazanchi excepted) are vested in the Collectors*

Appointment and removal of Native servants

[¹] As to the exercise of functions of Collectors by other officers, see the Bengal Land revenue Settlement Regulation 1822 (7 of 1822) s 35 *post* p 257

[²] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913) s 3 printed in Vol III of this Code

[³] The words "*or dewan*," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[⁴] These words in italics were repealed by Ben Reg 5 of 1804, s 3, but are printed here for convenience of reference

(Secs. 14-18.)

But they are to transmit to the Board of Revenue^[1] regular notice of all appointments and removals, and are to employ none but such public and registered officers in matters in any respect relating to their official duty, and are not, under any plea or pretext, to confer on their public officers any private trust relating to their personal concerns.

14. In the event of the death or removal of a Collector^[2] or of his absence from his station, the senior Assistant on the spot is to perform the duties of Collector * * ^[3], and the public officers of the Collectorship are accordingly to obey his orders.

15. No Collector,^[2] Assistant * * ^[4] to a Collector, or any Native in the employ of a Collector or of an Assistant, shall hold, directly or indirectly, any farm, or be concerned on their private account in the collection or payment of the revenue of any lands in the *zila*, either as farmer, surety or otherwise; and Native officers and private servants and dependents of Collectors and Assistants are prohibited from purchasing, directly or indirectly, any land that the Collector^[2] may dispose of at public sale; under the penalty of forfeiting the property to Government, upon proof being made, to the satisfaction of the Governor General in Council, of the property having been so purchased.

16. The rules in the preceding section, however, are not to be considered to prohibit a * * ^[5] Native officer of a Collector^[2], or any private servant of a Collector^[2] or of an Assistant, from purchasing *bonâ fide* the proprietary right in lands situated in the *zila*, by private sale.

17. (*Prohibition against giving land to Europeans.*) *Rep. by the Repealing Act, 1868 (8 of 1868).*

18. No Collector,^[2] ^[6] [or] Assistant * * ^[4] shall, directly or indirectly, carry on any trade, or be concerned in any commercial transaction whatever.

This prohibition, with regard to Collectors and their Assistants, is declared to extend to the purchase, directly or indirectly, of any goods or

[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

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[4] The words "or *diwan*," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The words "*diwan* or other," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] This word "or," in s. 18, was inserted by the Amending Act, 1903 (1 of 1903), Sch. II. *see post*, p. 400.

(Secs 19 26)

commodities in the British dominions in Bengal, for the purpose of remitting money to Europe

19. (*Duans prohibited from lending money to proprietors of land*)
Rep by the Repealing Act, 1873 (12 of 1873)

20 The Collectors^[1] are to be careful that the accounts and records of their respective *zilas* are kept complete and duly preserved Collectors to keep records

21, 22 (*Rules for rendering *zilas* compact, and prohibition against employing *repays* in collection of revenue*) Rep by the Repealing Act, 1874 (16 of 1874)

23 (*Restriction on advances of *talavi**) Rep by the Land Improvement Act, 1871 (26 of 1871)

24. The Collectors^[1] are prohibited deputing any person into the *zila* of any other Collector, or exercising any authority beyond the limits of their respective *zilas*, excepting in cases in which they may be authorized so to do * * *^[2] by special orders from a competent authority Collectors not to exercise authority beyond limits of their *zilas* without orders

25 The Collectors^[1] are to give monthly receipts for all payments of revenue into their treasuries, specifying the date or dates on which the money may be received * * *^[3] Rule with regard to receipts

The keepers of the Native records are to keep a register of these receipts regularly numbered

After having registered the receipts they are to attest on the face of them the date on which they may be registered

A copy of this register is to be transmitted monthly to the Board of Revenue^[4] or as often as that Board may require

A similar register of receipts is to be kept by all *tahsildars*, *sazawals* or other Native officers entrusted with the immediate collection of the public revenue, and a copy of it is to be transmitted to the Collector^[1] monthly or as often as he may require

26. The monthly or other receipts, for salaries, pensions or allowances, of whatever kind, which may be paid by the Collectors^[1] are to be deposited amongst the public records of their respective *zilas*, and a Register of receipts for salaries &c

[1] As to the exercise of functions of Collectors by other officers see the Bengal Land revenue Settlement Regulation 1822 (7 of 1822) s 35 *post*, v 267

[2] The words and figures by a Regulation published in the manner directed in Regulation 41 1793, or, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[3] The words 'and the species of rupee in which each payment may be made,' which were repealed by the Repealing Act 1874 (16 of 1874) are omitted

[4] As to exercise of functions of the Board of Revenue by other authorities, see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913), s 3, in Vol III of this Code

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14. In the event of the death or removal of a Collector^[2] or of his absence from his station, the senior Assistant on the spot is to perform the duties of Collector * *^[3], and the public officers of the Collectorship are accordingly to obey his orders.

15. No Collector,^[2] Assistant * *^[4] to a Collector, or any Native in the employ of a Collector or of an Assistant, shall hold, directly or indirectly, any farm, or be concerned on their private account in the collection or payment of the revenue of any lands in the *zila*, either as farmer, surety or otherwise; and Native officers and private servants and dependents of Collectors and Assistants are prohibited from purchasing, directly or indirectly, any land that the Collector^[2] may dispose of at public sale; under the penalty of forfeiting the property to Government, upon proof being made, to the satisfaction of the Governor General in Council, of the property having been so purchased.

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17. (*Prohibition against giving land to Europeans.*) *Rép. by the Repealing Act, 1868 (8 of 1868).*

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(Secs 19 26)

commodities in the British dominions in Bengal, for the purpose of remitting money to Europe

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Collectors to keep records

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Collectors not to exercise authority beyond limits of their *zilas* without orders.

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Register of receipts for salaries etc

1793 Act, 1793, 1794, 1795, 1796, 1797, 1798, 1799, 1800, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 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2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 2682, 2683, 2684, 2685, 2686, 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695, 2696, 2697, 2698, 2699, 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719, 2720, 2721, 2722, 2723, 2724, 2725, 2726, 2727, 2728, 2729, 2730, 2731, 2732, 2733, 2734, 2735, 2736, 2737, 2738, 2739, 2740, 2741, 2742, 2743, 2744, 2745, 2746, 2747, 2748, 2749, 2750, 2751, 2752, 2753, 2754, 2755, 2756, 2757, 2758, 2759, 2760, 2761, 2762, 2763, 2764, 2765, 2766, 2767, 2768, 2769, 2770, 2771, 2772, 2773, 2774, 2775, 2776, 2777, 2778, 2779, 2780, 2781, 2782, 2783, 2784, 2785, 2786, 2787, 2788, 2789, 2790, 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2800, 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813, 2814, 2815, 2816, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, 2832, 2833, 2834, 2835, 2836, 2837, 2838, 2839, 2840, 2841, 2842, 2843, 2844, 2845, 2846, 2847, 2848, 2849, 2850, 2851, 2852, 2853, 2854, 2855, 2856, 2857, 2858, 2859, 2860, 2861, 2862, 2863, 2864, 2865, 2866, 2867, 2868, 2869, 2870, 2871, 2872, 2873, 2874, 2875, 2876, 2877, 2878, 2879, 2880, 2881, 2882, 2883, 2884, 2885, 2886, 2887, 2888, 2889, 2890, 2891, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2899, 2900, 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913, 2914, 2915, 2916, 2917, 2918, 2919, 2920, 2921, 2922, 2923, 2924, 2925, 2926, 2927, 2928, 2929, 2930, 2931, 2932, 2933, 2934, 2935, 2936, 2937, 2938, 2939, 2940, 2941, 2942, 2943, 2944, 2945, 2946, 2947, 2948, 2949, 2950, 2951, 2952, 2953, 2954, 2955, 2956, 2957, 2958, 2959, 2960, 2961, 2962, 2963, 2964, 2965, 2966, 2967, 2968, 2969, 2970, 2971, 2972, 2973, 2974, 2975, 2976, 2977, 2978, 2979, 2980, 2981, 2982, 2983, 2984, 2985, 2986, 2987, 2988, 2989, 2990, 2991, 2992, 2993, 2994, 2995, 2996, 2997, 2998, 2999, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3019, 3020, 3021, 3022, 3023, 3024, 3025, 3026, 3027, 3028, 3029, 3030, 3031, 3032, 3033, 3034, 3035, 3036, 3037, 3038, 3039, 3040, 3041, 3042, 3043, 3044, 3045, 3046, 3047, 3048, 3049, 3050, 3051, 3052, 3053, 3054, 3055, 3056, 3057, 3058, 3059, 3060, 3061, 3062, 3063, 3064, 3065, 3066, 3067, 3068, 3069, 3070, 3071, 3072, 3073, 3074, 3075, 3076, 3077, 3078, 3079, 3080, 3081, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3089, 3090, 3091, 3092, 3093, 3094, 3095, 3096, 3097, 3098, 3099, 3100, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120, 3121, 3122, 3123, 3124, 3125, 3126, 3127, 3128, 3129, 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141, 3142, 3143, 3144, 3145, 3146, 3147, 3148, 3149, 3150, 3151, 3152, 3153, 3154, 3155, 3156, 3157, 3158, 3159, 3160, 3161, 3162, 3163, 3164, 3165, 3166, 3167, 3168, 3169, 3170, 3171, 3172, 3173, 3174, 3175, 3176, 3177, 3178, 3179, 3180, 3181, 3182, 3183, 3184, 3185, 3186, 3187, 3188, 3189, 3190, 3191, 3192, 3193, 3194, 3195, 3196, 3197, 3198, 3199, 3200, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213, 3214, 3215, 3216, 3217, 3218, 3219, 3220, 3221, 3222, 3223, 3224, 3225, 3226, 3227, 3228, 3229, 3230, 3231, 3232, 3233, 3234, 3235, 3236, 3237, 3238, 3239, 3240, 3241, 3242, 3243, 3244, 3245, 3246, 3247, 3248, 3249, 3250, 3251, 3252, 3253, 3254, 3255, 3256, 3257, 3258, 3259, 3260, 3261, 3262, 3263, 3264, 3265, 3266, 3267, 3268, 3269, 3270, 3271, 3272, 3273, 3274, 3275, 3276, 3277, 3278, 3279, 3280, 3281, 3282, 3283, 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3293, 3294, 3295, 3296, 3297, 3298, 3299, 3300, 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317, 3318, 3319, 3320, 3321, 3322, 3323, 3324, 3325, 3326, 3327, 3328, 3329, 3330, 3331, 3332, 3333, 3334, 3335, 3336, 3337, 3338, 3339, 3340, 3341, 3342, 3343, 3344, 3345, 3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353, 3354, 3355, 3356, 3357, 3358, 3359, 3360, 3361, 3362, 3363, 3364, 3365, 3366, 3367, 3368, 3369, 3370, 3371, 3372, 3373, 3374, 3375, 3376, 3377, 3378, 3379, 3380, 3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388, 3389, 3390, 3391, 3392, 3393, 3394, 3395, 3396, 3397, 3398, 3399, 3400, 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413, 3414, 3415, 3416, 3417, 3418, 3419, 3420, 3421, 3422, 3423, 3424, 3425, 3426, 3427, 3428, 3429, 3430, 3431, 3432, 3433, 3434, 3435, 3436, 3437, 3438, 3439, 3440, 3441, 3442, 3443, 3444, 3445, 3446, 3447, 3448, 3449, 3450, 3451, 3452, 3453, 3454, 3455, 3456, 3457, 3458, 3459, 3460, 3461, 3462, 3463, 3464, 3465, 3466, 3467, 3468, 3469, 3470, 3471, 3472, 3473, 3474, 3475, 3476, 3477, 3478, 3479, 3480, 3481, 3482, 3483, 3484, 3485, 3486, 3487, 3488, 3489, 3490, 3491, 3492, 3493, 3494, 3495, 3496, 3497, 3498, 3499, 3500, 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513, 3514, 3515, 3516, 3517, 3518, 3519, 3520, 3521, 3522, 3523, 3524, 3525, 3526, 3527, 3528, 3529, 3530, 3531, 3532, 3533, 3534, 3535, 3536, 3537, 3538, 3539, 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3549, 3550, 3551, 3552, 3553, 3554, 3555, 3556, 3557, 3558, 3559, 3560, 3561, 3562, 3563, 3564, 3565, 3566, 3567, 3568, 3569, 3570, 3571, 3572, 3573, 3574, 3575, 3576, 3577, 3578, 3579, 3580, 3581, 3582, 3583, 3584, 3585, 3586, 3587, 3588, 3589, 3590, 3591, 3592, 3593, 3594, 3595, 3596, 3597, 3598, 3599, 3600, 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613, 3614, 3615, 3616, 3617, 3618, 3619, 3620, 3621, 3622, 3623, 3624, 3625, 3626, 3627, 3628, 3629, 3630, 3631, 3632, 3633, 3634, 3635, 3636, 3637, 3638, 3639, 3640

(Secs. 27-33.)

register of them is to be kept by the keepers of the Native records * * * *^[1].

27. (*Collectors resigning or removed not to quit station without sanction.*) Rep. by the Repealing Act, 1874 (16 of 1874).

28, 29. (*Collectors to be subordinate to a Board of Revenue; its constitution.*) Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822).

30 to 32. (*Power of Board over officers under them, and rules regarding deputations.*) Rep. by the Repealing Act, 1874 (16 of 1874).

^[2]33. The Board of Revenue^[3] are empowered to require the personal attendance of any proprietor or farmer of land, or any dependent *talukdar*, under-farmer or *raiyat*, or any Native officer employed under a Collector,^[4] for the purpose of adjusting any settlement, or examining any accounts, or inquiring into any matter coming within their cognizance, provided the personal attendance of the party shall appear to them indispensably necessary.

In such cases the Board^[3] are to direct the Collector^[4] to serve such person with a written notice under his official seal and signature, specifying the business on account of which his attendance is judged necessary, and requiring him to attend the Board by such period as they may limit, under pain of being subject to such daily fine until he attends, or shows satisfactory cause for his non-attendance, as the Board may think proper to impose.

The Board^[3] are empowered to fine such persons neglecting to appear by the time required, in such amount as may appear to them proper upon a consideration of the case and the situation and circumstances in life of the party, and the amount of the fine shall be levied by the Collector,^[4] by the process prescribed for the recovery of arrears of revenue.

But the Board of Revenue^[3] are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a *vakil*.

^[1] The words "A copy of the register is to be transmitted annually to the Board of Revenue," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

^[2] For power to require the attendance before Collectors of purchasers at public sales, and of landholders and native inhabitants generally, see the Bengal Land-revenue Assessment Regulation, 1801 (1 of 1801), s. 10, *post*, p. 93.

For power to fine proprietors and farmers of land for not attending before Collectors, see the Bengal Landholders' Attendance Act, 1848 (20 of 1848), *post*, p. 351.

^[3] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

^[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 261.

(Secs 34-41)

34, 35. (*Execution of Board's orders, and powers of Members*)
Rep by the Bengal Board of Revenue Regulation, 1822 (3 of 1822)

36. The Board of Revenue^[1] are empowered to issue orders to their subordinate officers for making the settlement of lands that are or may be *khass*, in conformity to the Regulations and any special instructions which may be prescribed to them by the^[2] [Local Government]

Powers of Board as to settlement of lands held *khass*

37. In all cases of a settlement being made with or on behalf of *zamindars*, independent *talukdars* or other actual proprietors of land, their lands are to be deemed sufficient security for the payment of the revenue

Security for payment of revenue.

But, where lands are let in farm, a *mâlzamin*, or surety for the punctual discharge of the revenue, is to be invariably required

38. No remissions upon the settlement of a preceding year, nor any remissions whatsoever, are to be granted by the Board without the sanction of the^[2] [Local Government]

Remissions.

39. It is to be observed as a general principle that the settlement of lands that are or may be *khass* is to be made by the Collectors^[3] under the regulations and the instructions of the Board of Revenue^[1]

Settlements to be made by Collectors

But if the Board should deem a special deputation of one of their members, or of any other person, necessary to form the settlement of any such lands, they are to propose the measure to the^[2] [Local Government] with their reasons for recommending it

40. Upon a settlement being concluded with any proprietor or farmer, conformably to the Regulations, the Board of Revenue^[1] are to issue the usual *bandobast parwana* to the proprietor or farmer, without applying to the^[2] [Local Government] for^[4] [its] sanction for that purpose

Procedure on settlement being concluded.

41. The collection of the revenue is committed to the Collectors^[3], but the Board of Revenue^[1] are to see that the revenues are realized by the stipulated periods, or that solid and satisfactory reasons are assigned by the Collectors^[3] for any delay or deficiency

Collection of revenue

[1] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913) s 3 in Vol III of this Code

[2] The words 'Governor General in Council' in the original text are to be read as if the words 'Local Government' were substituted therefor—see the Amending Act, 1903 (1 of 1903) Sch II post p 701

[3] As to the exercise of functions of Collectors by other officers see the Bengal Land revenue Settlement Regulation 1822 (7 of 1822) s 35 post p 267

[4] The word 'his' in the original text, is to be read as if the word "its" were substituted therefor—see the Amending Act, 1903 (1 of 1903) Sch II, post, p 701

(Secs. 42-70.)

The power of coercion over the proprietors and farmers of land is also vested in the Collectors^[1] as prescribed in Regulation 14, 1793.^[2]

porary
ensions. 42. The Board^[3] are authorized to grant temporary suspensions of the demands of revenue whenever it may appear to them indispensably necessary, reporting the sum suspended, without delay to the^[4] [Local Government], with their reasons for the measure. But they are not to grant any suspensions beyond the current year.

nissions of
nces. 43. No remissions of balances are to be granted without the special authority of the^[4] [Local Government].

44. (*Accounts to be furnished to Governor-General.*) Rep. by the Land Improvement Act, 1871 (26 of 1871).

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nts, etc. 45. The Board of Revenue^[3] are to furnish the^[4] [Local Government] with such annual, monthly or other accounts as they now are or may be required to submit to^[5] [it].

They are likewise to observe all special orders which they have received or may receive from the^[1] [Local Government].

46, 47. (*Prohibitions to be observed by Board, and acknowledgment for places restored to foreign powers.*) Rep. by the Repealing Act, 1874 (16 of 1874).

48. (*Separate accounts of expenses for reducing rebellious zamindars and others.*) Rep. by the Repealing Act, 1873 (12 of 1873).

49 to 70. (*Rules for conducting the business of Board, and powers of President.*) Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822).

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[2] Ben. Reg. 14 of 1793 was repealed by the Repealing Act, 1874 (16 of 1874), but this reference is saved by the proviso to that Act.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, printed in Vol. III of this Code.

[4] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 701.

[5] The word "him," in the original text, is to be read as if the word "it" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 701.

BENGAL REGULATION 8 OF 1793

(THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793)

CONTENTS.

SECTION	
1 to 3	(<i>Repealed</i>)
4	Settlement with whom to be concluded
5 to 12	(<i>Repealed</i>)
13	Payment of revenue by <i>talukdars</i> ordered to be separated
14	Separated <i>talukdars</i> where to pay revenue
15	<i>Tahsildars</i>
16 to 18	(<i>Repealed</i>)
19	<i>Istimrardars</i> to be considered as <i>patta talukdars</i>
20	Exceptions to general order for conclusion of decennial settlement with actual proprietors of soil
21	Management of lands of disqualified proprietors
22	Exception as to proprietors of land in balance to Government and unable to pay arrears
23 to 25	(<i>Repealed</i>)
26	Determination of agreement to <i>jama</i> of undivided estates
27	Settlement of land standing in joint names of several proprietors, or of one for many
28, 29	(<i>Repealed</i>)
30	Settlement of disputed estates
31	If no claimant has been previously in possession
32	Settlement in cases of disputes as to boundaries
33	(<i>Repealed</i>)
34	Allowances of <i>lázis</i> and <i>lanungos</i> , and public pensions, to be added to the <i>jama</i>
35	Assessment to be fixed exclusive of <i>sar</i> with exceptions
36	Also exclusive of <i>lákhiraj</i> lands
37	But not of <i>málikána</i> lands in Bihár, or other lands in Bengal and Midnapore
38	(<i>Omitted</i>)
39	<i>Nankar</i> , <i>khamar</i> , <i>ny jot</i> and other private lands of proprietors in Bengal and Orissa to be annexed to be <i>málguzári</i> lands
40	Consolidation of <i>málguzári</i> and private lands also in certain <i>taluk</i> s
41	<i>Gháláráa</i> annexed to <i>málguzári</i> lands
42	(<i>Repealed</i>)
43	Procedure in case of landholders declining to engage for <i>jama</i> proposed to them
44 to 48	(<i>Repealed</i>)
49	Certain <i>istimrardars</i> not liable to increase of rent
50	Exception to above
51	Rules to prevent undue exactions from <i>talukdars</i>
52	Power of actual proprietors to let remaining lands as they think proper
53	Lands so let not to be taken charge of without <i>amilnama</i>
54	Process to prevent imposition on <i>ráyats</i> under denomination of <i>abwab</i> , <i>mathat</i> , etc
55	Proprietors and farmers of land prohibited imposing new <i>abwab</i> or <i>mathat</i> on <i>ráyats</i>
56 to 63	(<i>Repealed</i>)
64	Adjustment of <i>mufassal listbandis</i>
65	Bar to engagements contrary to Regulation
66	Landholders, etc, not to interfere in matters coming within cognizance of Courts or Magistrates
67	First to Fourth —(<i>Repealed</i>)
	Fifth —Collector to attend to spirit of Regulation, where not applicable to particular districts
	Sixth —(<i>Repealed</i>)
68 to 101	(<i>Repealed</i>)

BENGAL REGULATION 8 OF 1793.

(THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793) [1]

(1st May, 1793.)

A Regulation for re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the *zamindars*, independent *talukdar* and other actual proprietors of land, in [Bengal], Bihar and Orissa, passed for those Provinces, [respectively], on the 18th September, 1789; [the 25th November, 1789; and the 10th February, 1790], and subsequent dates.

1 to 3. (Re-enactment of code of rules passed on 23rd November, 1791; term of settlement, to be perpetual with approbation of Court of Directors) Rep. by the Repealing Act, 1874 (16 of 1874)

4. The settlement, under certain restrictions and exceptions here- Settlement after specified, shall be concluded with the actual proprietors of the soil, with whom after specified, shall be concluded with the actual proprietors of the soil, with whom of whatever denomination, whether *zamindars*, *talukdars* or *chaudhris*. concluded

5 to 12. (What *talukdars* to be actual proprietors, payment of rent through actual proprietors, what *talukdars* to be lease-holders; *jangalbari talukdars*; proprietors of *malguzari* *ama* lands, rules for guidance of Collectors; right of dissatisfied parties to sue in Court of *Diwani Adalat*) Rep. by the Repealing Act, 1874 (16 of 1874).

13. *Talukdars* ordered to be separated are not to be permitted to pay Payment of the revenue assessed upon their lands through the *zamindars* or other revenue by actual proprietors of estates as heretofore. *talukdars* ordered to be separated

[1] SHORT TITLE—This short title was given by the Amending Act, 1897 (5 of 1897), Sch III—see post, p 606

LOCAL EXTENT—This Regulation was passed for the whole of the former Province of Bengal—see the title It was declared, by the Laws Local Extent Act, 1874 (15 of Acts, 1868-78, Ed 1909, p 458), to be in force through- except as varied by the Local Extent Act, 1874 (15 of Acts, 1868-78, Ed 1909, p 458), to be in force through- red, by in force rict of S

The Regulation is in force in the Sonthal Parganas, see Vol IV, Part IV; but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913)

taluks, contained in Bengal Regula- constituted since the period of the Assessment Regulation, 1801 (1 of

(Secs. 26-33.)

26. The determination of the majority of the proprietors present, under the restrictions specified in section 23^[1], is also to be binding on the remainder, in agreeing or disagreeing to the *jama* proposed for undivided estates. The sharers, however, if dissatisfied, may obtain a division of their lands and a proportionate allotment of the revenue assessed thereon, but at their own expense.

27. When a portion of land stands in the joint names of several proprietors, or of one for many, but each proprietor has his separate share in his own possession and management, or in that of an agent for him, the settlement is to be made for each share with the person in possession, and his land is to be held exclusively responsible for the revenue assessed upon it.

28, 29. (*Settlement of mortgaged lands; settlement when proprietors are not forthcoming.*) Rep. by the Repealing Act, 1876 (12 of 1876).

30. Where the property in lands is disputed, the settlement is to be made with the proprietor in possession, under an express declaration that he is nevertheless liable to the claims upon the estate, which is to be transferable to any other person to whom the property may be subsequently adjudged.

31. If a case should occur in which none of the claimants shall have been previously in possession, they are to be allowed to appoint a manager until their claims shall have been determined in the *Diwani Adalat* of the *zila*: but, if they should not agree to a manager, the lands are to be held *khas*, and the surplus produce, after discharging the revenue, is to be kept in deposit, until the right of property shall be adjudged.

32. Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in the *Diwani Adalat*, and the settlement is to be made in the meantime for the lands in possession of the disputing parties respectively.

33. (*Rules for fixing assessment.*) Rep. by the Amending Act, 1903 (1 of 1903).

[¹] Section 23 was repealed by Ben. Reg. 17 of 1805. It ran as follows:—

"23. Where more proprietors than one possess an undivided estate, and the whole of them be not within the description of disqualified landholders specified in section 20, the settlement is to be made with them jointly, and they are to be required to elect a *sarbarahkar* or manager, who shall have the exclusive management of their lands during the continuance of his appointment. The determination of the majority of the proprietors, or of the majority of those present in the event of the absence of any, is to be binding on the remainder in the choice of a manager; and, when the votes of the proprietors are equal, the election of the manager is to be determined by the greater interest of the proprietors in the property. If in any case the interest also be equal, the manager is to be appointed by the Board of Revenue."

(Secs. 34-38.)

34. The allowances of the *kazis* and *kanungos* heretofore paid by the landholders, as well as any public pensions hitherto paid through the landholders, are to be added to the amount of the *jama*, and in future paid by the Collectors^[1] of the revenue of the several *zilas*, on the part of Government, under the rules and restrictions laid down for their guidance, with regard to such payments, in the Resolutions passed by the Governor General in Council on the 10th June, 1791, and re-enacted with modifications, by Regulation 24, 1793.^[2]

Allowances of *kazis* and *kanungos*, and public pensions, to be added to the *jama*.

35. The assessment is to be fixed exclusive and independent of all duties, taxes and other collections known under the general denomination of *saur*; the collections made in the *ganjes*, *hâts* and *bazars* situated within the limits of the town of Calcutta excepted, and excepting also the collections confirmed to the proprietors and holders of *ganjes*, *bazars* and *hâts* by the Resolutions passed by the Governor General in Council on the 11th of June, 1790.

Assessment to be fixed exclusive of *saur*, with exceptions.

* * * * *

36. The assessment is also to be fixed exclusive and independent of all existing *lakhiraj* lands, whether exempted from the *khiraj* (or public revenue) with or without due authority.

Also exclusive of *lakhiraj* lands

37. The above exemption, however, is not meant to include the *malikana* lands in Bihar, [or the *nakar*, *khamar*, *nij-jot* and other private lands of the zamindars and independent talukdars or other actual proprietors of land in Bengal and Midnapore,] regarding which the following rules have been prescribed.

But not of *malikana* lands in Bihar, or other lands in Bengal and Midnapore

38. Where the zamindars or other actual proprietors of land in Bihar have resigned, or have been deprived of the management of their lands, retaining possession of a title as *Malikana*, the latter is to be re-annexed and the zamindar, or other actual proprietors, are to be required to engage for the whole of their estates including the *Malikana* lands; unless such lands be held as *Malikana* under grants made, or confirmed by the Governor General in Council, or the supreme authority of the country for the time being, and have been sold or mortgaged, and given in possession to the mortgagee in which case they are to be exempted from this rule.

[1] As to the exercise of functions of Collectors by other officers, see the Regulation of 1793, s. 10, and the Regulation of 1794, s. 10.

by the Orissa Tenancy Act, 1874, and the Orissa Tenancy Act, 1875, s. 10, Vol. III of this Code.

[2] The second sentence of s. 35 which was repealed by the Regulation of 1874, is omitted.

(Secs. 39-41.)

Grants for *malikana* lands not made or confirmed by the supreme authority of the country are declared invalid by the Regulation passed on the 8th August, 1768.

If the Collectors, however, should be of opinion that any material injury will be done to any individual by the execution of these orders, they are to report the circumstances to the Board of Revenue.

kar, 39. The *nankar*, *khamar*, *nij-jot* and other private lands appropriated by the *zamindars*, independent *talukdars* and other actual proprietors of land in Bengal^[1] and Orissa to the subsistence of themselves and families shall be also annexed to the *mālguzāri* lands, and the ten years' *jama* fixed upon the whole under the following modification; that such proprietors as may decline to engage for their lands be allowed the option of retaining possession of their private lands above specified, upon the terms on which they have hitherto possessed them, provided they shall prove, to the satisfaction of the Board of Revenue,^[2] that they held them under a similar tenure previous to the 12th August, 1765, the date of the grant of the *Diwani* to the Company, and have hitherto been permitted to keep possession of them, whenever their *zamindaris* or estates have been held *khas* or let in farm, but not otherwise.

In the event of such proof, and of their availing themselves of the option above given to retain possession of their private lands, a deduction, adequate to the neat produce of such lands, is to be made from the amount of the allowance fixed for excluded proprietors by section 44.^[3]

40. The above consolidation of the *mālguzāri* and private lands is also to be made in the *taluks* continued under the proprietors on whom they have hitherto been dependent; not, however, with a view of increasing the rents of the *talukdars*, but in order to make the whole of the lands composing their *taluks* answerable for their proportion of the public assessment allotted thereon.

41. The *chakaran* lands, or lands held by public officers and private servants in lieu of wages, are also not meant to be included in the

[1] This related to the former Province of Bengal.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, printed in Vol. III of this Code.

[3] Section 44 was repealed by the Repealing Act, 1874 (16 of 1874), but this reference is saved by the proviso to that Act. The section ran as follows:—

“44. Proprietors who may finally decline engaging for the *jama* proposed to them, and whose lands may consequently be let in farm or held *khas* are to receive *malikana* (an allowance) in consideration of their proprietary rights at the rate of 10 per cent. on the said *jama* of their lands, if let in farm, or at the same rate on the neat collections from their lands, if held *khas*, viz., on the neat amount realized by Government, after defraying the *malikana* as well as all other charges. Out of this allowance, however, a provision is to be made for such persons belonging to the families of the proprietors as may be entitled thereto.”

(Secs. 42-49.)

exception contained in section 36. The whole of these lands in each Province are to be annexed to the *mālguzāri* lands and declared responsible for the public revenue assessed on the *zamindaris*, independent *taluks* or other estates in which they are included, in common with all other *mālguzāri* lands therein.

42. (*Engagements for the jama to be for sicca rupees.*) Rep. by the Repealing Act, 1874 (16 of 1874).

43. In the event of any proprietor declining to engage for the settlement of his lands at the *jama* proposed to him, the Collector^[1] is to communicate the objections offered, with his opinion respecting them, to the Board of Revenue.^[2]

Procedure in case of land-holders declining to engage for *jama* proposed to them.

That Board^[2] is to determine the proper assessment after making such further inquiries as they may think necessary, and the objecting proprietor is to be required to engage for such assessment without further delay; and in the event of his refusal, which is to be given in writing, his lands are to be let in farm or held *khas*, as the Board of Revenue^[2] may in each instance think most expedient.

44 to 47. (*Proprietors refusing to engage for the jama to receive malikana; rules respecting payment of malikana and enforcement of payment from farmers.*) Rep. by the Repealing Act, 1874 (16 of 1874).

48. (*Settlement by proprietors with talukdars under them.*) Rep. by the Repealing Act, 1876 (12 of 1876).

49. It is to be understood, however, that *istimrardars* (*mukarraridars*) of the nature of those described in section 18^[3] who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase, either by the officers of Government or by the *zamindar* or other actual proprietor of land, should he engage for his own lands.

Collectors by other officers, see the Reg. 1874

by other authorities

"18 *Mukarraridars* holding lands of which they are not the actual proprietors whose *mukarrari* grants have been obtained since the Company's settlement and never received the sanction of the Supreme Government, the settlement is to be made with the actual proprietors of the lands.

In cases, however, where such *mukarraridars* have been in possession of the lands for a term exceeding twelve years, they are to remain in possession to the pleasure of the Honourable Court of Directors at which they held the lands and that which may be the case with the *talukdars*, added to the net produce of the *talukdars*, remain in possession.

(Secs. 50-52.)

With regard to such *istimrardars* also as have not held their lands at a fixed rent for so long a period, if the *zamindar* or other actual proprietor of land has bound himself by the deed which he may have executed not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for his own benefit, but must confine his demands to the rent he may have voluntarily agreed to receive.

50. This last restriction imposed on the *zamindar* or other actual proprietor of land, in section 49, is not to be considered to preclude the officer of Government or farmer, in the event of the *zamindari* being held *khas* or let in farm, from assessing such *istimrardars* according to the general rate of the district.

[¹]51. The following rules are prescribed to prevent undue exaction from the dependent *talukdars* :—

First.—No *zamindar* or other actual proprietor of land shall demand an increase from the *talukdars* dependent on him, although he should himself be subject to the payment of an increase of *jama* to Government; except upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the *talukdar* holds his tenure; or that the *talukdar*, by receiving abatements from his *jama*, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Second.—If, in any instance, it be proved that a *zamindar* or other actual proprietor of land exacts more from a *talukdar* than he has a right to, the Court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit, to the party injured.

[²]52. The *zamindar* or other actual proprietor of land is to let the remaining lands of his *zamindari* or estate, under the prescribed restrictions, in whatever manner he may think proper; but every engagement contracted with under-farmers shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land

[¹] Notwithstanding anything contained in s. 51 of this Regulation, certain dependent *talukdars* and other persons are not to be liable to enhancement of rent—see the Chota Nagpur, Tenancy Act, 1908 (Ben. Act 6 of 1908), Vol. III of this Code.

Nothing in s. 51 is to affect any settlement proceedings under the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822)—printed *post*, p. 252; or under any other law for the time being in force for the regulation of settlements of land-revenue—see the Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), s. 4, in Vol. II of this Code.

Ss. 51 to 55, 64 and 65 are repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (printed *post*, p. 462), in the whole of the former Province of Bengal “except the town of Calcutta, the Division of Orissa and the Scheduled Districts.” They have also been repealed for the Orissa Division by the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913), s. 2, Sch. 1, Part 1, in Vol. III of this Code.

Sections 52 to 55, 64 and 65 appear to be in force only in the Chota Nagpur Division

[²] As to the local repeal of ss. 52 to 54, see the foot-note to s. 51, immediately-above.

(Secs. 53-58.)

or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount. The restrictions prescribed and referred to in this section are the following:

[1]53. No person contracting with a *zamindar*, independent *talukdar* or other actual proprietor or employed by him in the management of the collections shall be authorized to take charge of the lands or collections without an *amulnama*, or written commission, signed by such *zamindar*, independent *talukdar* or other actual proprietor. Lands so let not to be taken charge of without *amulnama*.

[1]54. The impositions upon the *raiya*s, under the denomination of *abwab*, *mathat* and other appellations, from their number and uncertainty Having become intricate to adjust, and a source of oppression to the *raiya*s, all proprietors of land and dependent *talukdars* shall revise the same, in concert with the *raiya*s, and consolidate the whole with the *assal* into one specific sum. Process to prevent imposition on *raiya*s' under denomination of *abwab*, *mathat*, etc.

In large *zamindaris* or estates the proprietors are to commence this simplification of the rents of their *raiya*s in the *parganas* where the impositions are most numerous, and to proceed in it gradually till completed; but so that it be effected for the whole of their lands by the end^[2] [of the Bengal year 1198 in the Bengal districts, and] of the *Fasli*^[2] and *Wilayati*^[2] year 1198 in the Bihar and Orissa districts, these being the periods fixed for the delivery of *pattas*, as hereafter specified.

[4]55. No actual proprietor of land and dependent *talukdar* or farmer of land, of whatever description, shall impose any new *abwab* or *mathat* upon the *raiya*s under any pretence whatever. Proprietors and farmers of land prohibited imposing new *abwab* or *mathat* on *raiya*s.

Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered that new *abwab* or *mathat* have been imposed, the person imposing the same shall be liable to this penalty for the entire period of such impositions.

56, 57. (*Variations of pattas according to articles of produce; what pattas delivered to raiya*s shall contain.) Rep. by the Repealing Act, 1876 (12 of 1876).

58: (*Forms of pattas*.) Rep. by the Bengal Land-Revenue Sales Regulation, 1812 (5 of 1812), s. 3.

[1] As to the local repeal of ss 52 to 54, see the footnote to s 51, immediately above.

[2] i.e., the 12th September, 1791.

[3] i.e., the 1st September, 1791.

[4] As to the local repeal of ss 55 and 64, see footnote [1] on p. 38, ante.

(Secs. 59-67.)

59, 60. (*Right of raiyats to demand pattas; existing leases to remain in force until period of expiration; restriction on cancelling pattas of khudkast raiyats.*) Rep. by the Repealing Act, 1876 (12 of 1876).

61. (*Time allowed for delivery of pattas to raiyats.*) Rep. by the Repealing Act, 1874 (16 of 1874).

62. (*Rules regarding patwaris.*) Rep. by the Bengal Patwaris Regulation, 1817 (12 of 1817), as extended by the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (2).

63. (*Proprietors to give receipts for rent or revenue received, and not to demand rent of absconded raiyats from those who remain.*) Rep. by the Repealing Act, 1874 (16 of 1874).

[¹] **64.** The proprietors of land, dependent *talukdars* and farmers of land, of every description, are to adjust the instalments of the rents receivable by them from their underrenters and *raiya*ts, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule.

[²] **65.** No proprietor of land or dependent *talukdar* shall contract any engagement with any under-farmer, or authorize any act, contrary to the letter and meaning of this Regulation.

66. *Zamindars*, independent *talukdars* and other actual proprietors of land, dependent *talukdars*, farmers of land holding farms immediately of Government, and all persons farming lands of the above-mentioned descriptions of landholders and farmers of land, and their respective officers, agents, servants, dependents and *raiya*ts, are prohibited from taking cognizance of, or interfering in, matters, or causes coming within the jurisdiction of the Courts of Civil Judicature, * * * [³] or the Magistrates, under pain of being liable to the payment of such fine to Government, and damages to the party injured, as the Court of Judicature in which they may be prosecuted for the act may deem it proper to impose and award.

67. *First to Fourth.* (*Restrictions in the kabuliyats to be in force; proprietors entitled to sell or mortgage their estates from date of settlement; rules regarding recovery of arrears from raiyats; withdrawāl of*

[¹] As to the local repeal of ss. 55 and 64, see footnote [¹] on p. 38, *ante*.

[²] As regards s. 65, it should be noted that the portion of the Bengal Land-revenue Sales Regulation, 1812 (5 of 1812), s. 3, which was repealed by the Repealing Act, 1874 (16 of 1874), rescinded "such parts of Reg. 8 of 1793 . . . as declare that engagements for rent contracted in any other mode than that prescribed by the Regulation . . . shall be deemed to be invalid."

As to the local repeal of s. 65, see footnote [¹] on p. 38, *ante*.

[³] The words "or the Courts of Circuit," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Secs 68 101)

police jurisdiction from proprietors) Rep by the Repealing Act, 1876
(12 of 1876)

Fifth —In the original rules above mentioned it was also directed that, if in any instance the Regulations should appear inapplicable to the circumstances of any particular district, the Collector^[1] should attend to the spirit of them, and carry them into execution in such mode as circumstances might allow, reporting any alterations or modifications which he might deem necessary

Collector to
attend to
spirit of
Regulation,
where not
applicable to
particular
districts

This rule is to be considered still in force in forming any settlements which remain to be concluded, but it is not to be construed to empower the Collector to exercise any judicial authority

Sixth —(Settlement under Regulations in force prior to the original rules for the decennial settlement) *Rep by the Repealing Act, 1876*
(12 of 1876)

68 to 101. (*Special orders for Bengal, Bihar, Midnapore and Salt Districts*) *Rep by the Repealing Act, 1874 (16 of 1874)*

[1] As to the exercise of functions of Collectors by other officers see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s 35, *post*, p 267

BENGAL REGULATION 11 of 1793.

(THE BENGAL INHERITANCE REGULATION, 1793) [1]

(1st May, 1793.)

A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government.

I. A custom, originating in considerations of financial convenience, Preamble, was established in these Provinces under the Native Administrations, according to which some of the most extensive *zamindaris* are not liable to division.

Upon the death of the proprietor of one of these estates it devolves entire to the eldest son, or next heir, of the deceased, to the exclusion of all other sons, or relations.

This custom is repugnant both to the Hindu and Muhammadan laws, which annexed to primogeniture no exclusive right of succession to landed property, and consequently subversive of the rights of those individuals who would be entitled to a share of the estates in question were the established laws of inheritance allowed to operate with regard to them as well as all other estates.

It likewise tends to prevent the general improvement of the country, from the proprietors of these large estates not having the means, or being unable to bestow the attention, requisite for bringing into cultivation the extensive tracts of waste land comprised in them

[1] **SHORT TITLE**—This short title was given by the Repealing and Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 608

LOCAL EXTENT—This Regulation was declared by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868-78, Ed. 1909, p. 459), to be in force throughout the former P

It has been declared, by 1874), section 3, to be in force in the . . . d
Manbhum and Pargana Dha . . . r
Division, see Vol. IV, Part III

The application of the Regulation in the deregulationised tracts in Bihar and Orissa is barred—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 864, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 832

SAYING—This Regulation does not supersede or affect any established usage by which the succession to landed estates devolves upon intestacy to a single heir—see the Bengal Inheritance Regulation, 1800 (10 of 1800), *post*, p. 89, and the Cuttack Land-revenue Regulation, 1805 (12 of 1805), s. 36, *post*, p. 112

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devolves upon intestacy to a single heir—see the
10, of 1800), *post*, p. 89, and the Cuttack Land-
36, *post*, p. 112

(Secs. 2-3.)

For the above reasons, and as the limitation of the public demand upon the estates of individuals as they now exist, and the rules prescribed for apportioning the amount of it on the several shares of any estates which may be divided, obviate the objections and inconveniences that might have arisen from such divisions when the public demand was liable to annual or frequent variation, the Governor General in Council has enacted the following rules:

2. * * * [1] if any *zamindar*, independent *talukdar* or other actual proprietor of land shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

3. If any *zamindar*, independent *talukdar* or other actual proprietor of land shall die * * * [2] without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the rule contained in [3] [section 2] such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate.

If one or more, or all of the sharers shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in [4] [the Estates Partition Act, 1876], and such sharer or sharers shall have the separate possession of 1876
such share or shares accordingly.

If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

[1] Words and figures as to dates, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The words and figures "subsequent to the period specified in section 2," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[3] The word and figure "section 2" in s. 3 were substituted for the words "that section" by the Amending Act, 1891 (12 of 1891), Sch. II—see the General Acts, 1887-97, Ed. 1909, p. 336.

[4] These words and figures in square brackets in s. 3 were substituted for the word and figures "Regulation 25, 1793," by the Amending Act, 1891 (12 of 1891), Sch. II—see the General Acts, 1887-97, Ed. 1909, p. 336. Ben. Act 8 of 1876 has been repealed and re-enacted by the Estates Partition Act, 1897 (Ben. Act 5 of 1897), and this reference should now be construed as a reference to the latter Act—see s. 2 (2) thereof, in Vol. III of this Code.

(Secs. 4-5.)

4. * * *^[1] if any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public *jama* charged upon the whole estate which is to be assessed upon such share or shares is to be adjusted according to the rules prescribed in section 10, Regulation 1, 1793.^[2] Shares held separate how assessed.

If the estate is held *khas* or let in farm, the provisions contained in section 11, Regulation 1, 1793,^[2] regarding estates so circumstanced which may be divided, will be applicable to it.

5. Nothing contained in this Regulation is to be construed to * * *^[3] prohibit any actual proprietor of land bequeathing or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the 1st July, 1794, his or her landed estate entire to his or her eldest son or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner, which such proprietor may think proper : Saving of bequests and transfers.

Provided that the bequest or transfer be not repugnant to any Regulations that have been or may be passed by the Governor General in Council, nor contrary to the Hindu or Muhammadan law; and that the bequest or transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before, such witnesses, and in such manner, as those Laws and Regulations respectively do or may require.

^[1] The reference to Reg. 8 of 1793, in s 4, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

^[2] The Bengal Permanent Settlement Regulation, 1793. It is printed, *ante*, p 3

^[3] Portions of ss 5 and 6 which were repealed by the Repealing Act, 1874 (16 of 1874), with the effect of running the two sections into one, have been omitted.

BENGAL REGULATION 19 of 1793

[THE BENGAL REVENUE FREE LANDS (NON BADSHAHI GRANTS) REGULATION, 1793]

CONTENTS

SECTION

1. Preamble
2. *First*—Validity of grants of alienated land made before and after 12th August, 1765
Second—Reference of doubtful claims to Governor General in Council
Third—No persons, not being original grantees, entitled to hold lands free of revenue
Fourth—Nor also heirs of present possessors
Fifth—Present possessors prohibited from transferring or mortgaging grants
3. *First*—All grants made or confirmed since *Durans* declared invalid
Second—Courts how to proceed in case of doubt of authority of officer confirming grant
Third—Exception in favour of grants made by chiefs of provincial councils
Fourth—And also of certain grants made for religious or charitable purposes
4. Disputes regarding proprietary right
5. Effect of continuing proprietary right to grantees in possession.
6. To whom revenue assessed on lands, not exceeding 100 *bighas*, alienated before 1st December, 1790, is to belong
7. Revenue on lands exceeding 100 *bighas*, alienated prior to 1st December, 1790, to belong to Government
8. *First*—Rules for assessment under section 7
Second—If grant made previous to Bengal year 1178, or [*Fash* or] *Wilayat*, year 1179
Third—If grant made after that time
9. Rule for fixing revenue on land specified in section 6
10. Grants made since 1st December, 1790, declared void
11. How proprietors and farmers to recover revenue on lands specified in section 6
- 12 to 14. (*Repealed*)
15. Suits by or against Government
16. (*Repealed*)
17. Grants forged or altered in any respect or ante-dated, declared void.
- 18, 19. (*Repealed*)
20. Transfer of grants
- 21 to 23. (*Repealed*)
24. Time for registry of grants
25. (*Repealed*)
26. Lands not registered within prescribed time
27. Grants not registered within prescribed period, etc., invalid
28. Effect of registry of lands
- 29 to 46. (*Repealed*)
47. Rules respecting life-grants applicable to grants for a term
- 48, 49. Saving of grants made or confirmed by late *superintendents* of the *boz-zomins* *daftar*, and of *badshahi* grants

BENGAL REGULATION 19 of 1793

[THE BENGAL REVENUE FREE LANDS (NON BADSHAHI GRANTS) REGULATION, 1793]

CONTENTS.

SECTION

- 1 Preamble
- 2 *First*—Validity of grants of alienated land made before and after 12th August, 1765
- Second*—Reference of doubtful claims to Governor General in Council
- Third*—No persons, not being original grantees, entitled to hold lands free of revenue
- Fourth*—Nor also heirs of present possessors
- Fifth*—Present possessors prohibited from transferring or mortgaging grants
- 3 *First*—All grants made or confirmed since *Diwan* declared invalid
- Second*—Courts how to proceed in case of doubt of authority of officer confirming grant
- Third*—Exception in favour of grants made by chiefs of provincial councils
- Fourth*—And also of certain grants made for religious or charitable purposes
- 4 Disputes regarding proprietary right
- 5 Effect of continuing proprietary right to grantee in possession
- 6 To whom revenue assessed on lands, not exceeding 100 *bighas*, alienated before 1st December, 1790, is to belong
- 7 Revenue on lands exceeding 100 *bighas*, alienated prior to 1st December, 1790, to belong to Government
- 8 *First*—Rules for assessment under section 7
- Second*—If grant made previous to Bengal year 1178, or [*Fasli* or] *Wilyat* year 1179
- Third*—If grant made after that time.
- 9 Rule for fixing revenue on land specified in section 6
- 10 Grants made since 1st December, 1790, declared void
- 11 How proprietors and farmers to recover revenue on lands specified in section 6
- 12 to 14 (*Repealed*)
- 15 Suits by or against Government
- 16 (*Repealed*)
- 17 Grants forged or altered in any respect or ante dated, declared void
- 18, 19 (*Repealed*)
- 20 Transfer of grants
- 21 to 23 (*Repealed*)
- 24 Time for registry of grants
- 25 (*Repealed*)
- 26 Lands not registered within prescribed time
- 27 Grants not registered within prescribed period, etc, invalid
- 28 Effect of registry of lands
- 29 to 46 (*Repealed*)
- 47 Rules respecting life grants applicable to grants for a term.
- 48, 49 Saving of grants made or confirmed by late superintendents of the *baz* *zamindar* *daftar*, and of *badshahi* grants

BENGAL REGULATION 19 of 1793

[THE BENGAL REVENUE FREE LANDS (NON BADSHAHI GRANTS) REGULATION, 1793]

CONTENTS.

SECTION

- 1 Preamble
- 2 *First*—Validity of grants of alienated land made before and after 12th August, 1765
- Second*—Reference of doubtful claims to Governor General in Council
- Third*—No persons, not being original grantees, entitled to hold lands free of revenue
- Fourth*—Nor also heirs of present possessors
- Fifth*—Present possessors prohibited from transferring or mortgaging grants
- 3 *First*—All grants made or confirmed since *Diwans* declared invalid
- Second*—Courts how to proceed in case of doubt of authority of officer confirming grant
- Third*—Exception in favour of grants made by chiefs of provincial councils
- Fourth*—And also of certain grants made for religious or charitable purposes
- 4 Disputes regarding proprietary right
- 5 Effect of continuing proprietary right to grantee in possession
- 6 To whom revenue assessed on lands, not exceeding 100 *bighas*, alienated before 1st December, 1790, is to belong
- 7 Revenue on lands exceeding 100 *bighas*, alienated prior to 1st December, 1790, to belong to Government
- 8 *First*—Rules for assessment under section 7
- Second*—If grant made previous to Bengal year 1178, or [*Fash* or] *Wilyats* year 1179
- Third*—If grant made after that time.
- 9 Rule for fixing revenue on land specified in section 6
- 10 Grants made since 1st December, 1790, declared void
- 11 How proprietors and farmers to recover revenue on lands specified in section 6
- 12 to 14 (*Repealed*)
- 15 Suits by or against Government
- 16 (*Repealed*)
- 17 Grants forged or altered in any respect or ante dated, declared void
- 18, 19 (*Repealed*)
- 20 Transfer of grants
- 21 to 23 (*Repealed*)
- 24 Time for registry of grants
- 25 (*Repealed*)
- 26 Lands not registered within prescribed time
- 27 Grants not registered within prescribed period, etc, invalid
- 28 Effect of registry of lands
- 29 to 46 (*Repealed*)
- 47 Rules respecting life grants applicable to grants for a term
- 48, 49 Saving of grants made or confirmed by late superintendents of the *bazi zamins* *daftar*, and of *badshahi* grants

BENGAL REGULATION 19 OF 1793.

[THE BENGAL REVENUE-FREE LANDS (NON-BADSHAHI GRANTS)
REGULATION, 1793.][¹]

(1st May, 1793.)

A Regulation for re-enacting, with modifications, the rules passed by the Governor General in Council on the 1st December, 1780, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed *badshahi* or royal; and for determining the amount of the annual assessment to be imposed on lands so held, which may be adjudged or become liable to the payment of public revenue.

1. By the ancient law of the country the ruling power is entitled to Preamble a certain proportion of the produce of every *bigha* of land (demandable in money or kind, according to local custom), unless it transfers its right thereto for a term or in perpetuity, or limits the public demand upon the whole of the lands belonging to an individual, leaving him to

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see *post*, p 684

LOCAL EXTENT.—This Regulation was declared by the Cuttack Land revenue Regulation, 1805 (12 of 1805), ss 17 and 24 (printed *post*, pp 104, 108), to be in force, with modifications, in the District of Cuttack

It was afterwards declared by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868 78, Ed 1909, p 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division, see Vol IV, Part III

The Regulation is in force in the Sonthal Parganas, see Vol IV, Part IV; but its application is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p 864

OTHER P. — — — — — is dealing with revenue-free lands are the Ben Regs 19 and 37 of 1793, *post*, p 67, 1800 (8 of 1800), *post*, p 87, the Bengal Land Revenue (Presumed *Sanungos* and Revenue free Lands) Regulation, 1825 (13 of 1825), *post*, p 303, and the Bengal Revenue free Lands Regulation, 1825 (14 of 1825), *post*, p 307 The latter Regulation modifies Ben Regs 19 and 37 of 1793—see its first section, *post*, p 307

The rules prescribed in Ben Regs 19 and 37 of 1793, for determining the validity of grants for holding lands exempt from the payment of the public revenue have been declared applicable to grants for holding lands under *mukarrari* or other tenures limiting the demand of the Government—see the Bengal Land revenue Assessment (Resumed Lands) Regulation, 1810 (2 of 1819) s 4, *post*, p 187

(Sec. 1.)

appropriate to his own use the difference between the value of such proportion of the produce and the sum payable to the public, whilst he continues to discharge the latter.

As a necessary consequence of this law, if a *zamindar* made a grant of any part of his lands to be held exempt from the payment of revenue, it was considered void, from being an alienation of the dues of Government without its sanction.

Had the validity of such grants been admitted, it is obvious that the revenue of Government would have been liable to gradual diminution.

Previous, however, to the Company's accession to the *Diwani*, numerous grants of this description were made, not only by the *zamindars*, but by the officers of Government appointed to the temporary superintendence of the collection of the revenue, under the pretext that the produce of the lands was to be applied to religious or charitable uses.

Of these grants some were applied to the purposes for which they were professed to have been made, but in general they were given for the personal advantage of the grantee, or with a view to the clandestine appropriation of the produce to the use of the grantor, or sold to supply his private exigencies.

In conformity to the principles which prevailed under the Native Administration, the British Government have at various times declared all grants for holding land exempt from the payment of revenue made since the date of the Company's accession to the *Diwani*, without their sanction, illegal and void.

Their lenity, however, induced them to adopt it as a principle that grants of this description made previous to the date of the *Diwani*, and provided the grantees had obtained possession, should be held valid to the extent of the intentions of the grantor, as ascertainable from the terms of the writings by which the grants might have been made, or from their nature and denomination.

But no complete register of these exempted lands having been formed upon the Company's accession to the *Diwani*, nor subsequent to that period, many *zamindars*, as well as the temporary farmers of the public revenue, and the officers of Government to whom the collection of the revenue in the different districts has been occasionally committed, in consequence of the *zamindars* refusing to pay the revenue demanded of them, have availed themselves of the above-mentioned rule of limitation to make grants of extensive tracts of land to others, or in the names of their relations or dependents, for their own use, dating the deeds for

(Sec. I.)

these alienations previous to the Company's accession to the *Diwani*, or procuring them to be registered in the *zamindari* records as having been alienated prior to that period.

Others have made such alienations without ante-dating the grants, and left it to the grantee to maintain himself in possession by such means as circumstances might afford, in the event of his title being brought into question.

The Governor General in Council deeming it incumbent on him to recover the public dues thus alienated in opposition to the ancient and existing laws of the country, as well as to resume the revenue of all lands the grants for which might expire; and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates, as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated by themselves or others, the amount in both cases being excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation 8, 1793,^[1] that the *jama* assessed upon the estates of individuals was to be considered as exclusive and independent of all existing *lakhiraj* lands, whether exempted from the *lakhiraj* or public revenue, with or without due authority; and by the third clause of the seventh article of the Proclamation contained in Regulation 1, 1793,^[2] which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles.

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands which have been illegally alienated, is equally solicitous that persons holding such grants under titles that are declared valid should be secured in the possession and enjoyment of their property.

It is likewise his wish that the recovery of the dues of Government from those lands which have been illegally alienated previous to the 1st December, 1790, should be attended with as little distress as possible to the possessors; and, to obviate all injustice or extortion in the inquiry into the titles of persons holding exempted lands, he has further resolved that the claims of the public on their lands (provided they register the

[1] The Bengal Decennial Settlement Regulation, 1793 It is printed ante, p 31
[2] The Bengal Decennial Settlement Regulation, 1793 It is printed ante, p 31

(Sec. 2.)

grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such exempted lands may be subjected to the payment of revenue until the titles of the proprietor shall have been adjudged invalid by a final judicial decree.

Upon the above grounds, and with a view to facilitate the recovery of the public dues from lands held exempted under invalid grants, as well as to prevent any similar alienations being hereafter made, to the prejudice of the security of the public revenue which has been assessed in perpetuity upon the estates of individuals; and further, that Government and the officers employed in the collection of the public revenue may at all times have in their possession a correct register of the lands in the several *zilas* held exempt from the payment of revenue, the following rules, containing the rules passed on the 1st December, 1790, with modifications, have been enacted :

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2. *First*.—All grants for holding land exempt from the payment of revenue made previous to the 12th August, 1765, the date of the Company's accession to the *Diwani*, by whatever authority, and whether by a writing or without a writing, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to the date above-mentioned, and the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of Government.

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

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Second.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previous to the date of the Company's accession to the *Diwani*, and of it being proved, to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the^[1] [Local

[¹] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 701.

(Sec 2)

Government], to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue, and, upon receiving the determination of the [¹][Local Government], the Court is to decide accordingly

No such claim, however, to hold exempt from the payment of revenue land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted shall be heard by any *Zila* or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a [²] competent jurisdiction within the twelve years * * * * [³]

Third —But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold exempt from the payment of revenue land now subject to the payment of revenue, under a grant made previous to the Company's accession to the *Duwani*, the writing for which may expressly specify it to have been given for the life of the grantee only or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life tenure only accordingly to the ancient usages of the country

No person, not being original grantees entitled to hold lands free of revenue

Fourth —Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue under a grant made previous to the *Duwani*, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only, or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country

Nor also heirs of present possessor.

Nor to entitle the heir to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved, to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary according to the ancient usages of the country

[¹] The words ' Governor General in Council ' in the original text, are to be read as if the words ' Local Government ' were substituted therefor—see the Amending Act, 1903 (1 of 1903) Sch II, *post* p 701

[²] *Sic* in Clarke

[³] The words and figures and proceeded in it, as required by section 14 Regulation 3 1793 in s 2, cl (2), which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

(Sec. 3.)

But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the date of the *Diwani*, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the [1][Local Government], to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue or not, as may appear to [2][it] proper.

Fifth.—The present possessors of lands now exempt from the payment of revenue, under such life-grants made previous to the *Diwani*, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives, and all such transfers and mortgages are declared illegal and void.

It is to be understood, however, that if any such life grants shall have been confirmed as hereditary tenures by Government, or by the officers of Government empowered so to confirm them, they are not to be liable to the payment of revenue on the death of the present possessor, and are to be excepted from the other rules contained in this and the preceding clause.

If doubts shall arise in any Court as to the competency of the authority of any officer of Government to confirm any such life-grant as hereditary, the Court is to suspend its judgment, and report the circumstances to the [1][Local Government], to whom a power is reserved of determining finally whether such officer possessed competent authority to confirm the grant as hereditary or not, and the Court, upon receiving the determination of the [1] [Local Government] is to decide accordingly.

3. First.—All grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1765, and confirmed previous to the 1st December, 1790, corresponding with [the 18th Aghani, 1197, Bengal era] the 10th Aghani, 1198, [3] Fasli, the 18th Aghani, 1198, [4] Wilayati, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, post, p. 701.

[2] The word "him," in the original text, is to be read as if the word "it" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, post, p. 701.

[3] i.e., 26th September, 1771.

[4] i.e., 15th September, 1771.

(Sec. 4.)

Second.—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the [1] [Local Government], to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the [1] [Local Government] shall decide accordingly.

Courts how proceed in case of doubt of authority of officer confirming grant

Third.—The rule contained in clause first is not to be considered to extend to authorize the subjecting to the payment of revenue land held exempt from the payment of it under grants made previous to the commencement of [the Bengal year 1178 or] the [2] *Fash* or [2] *Wilyati* year 1179 (according as the land may be situated in [Bengal] Bihar or Orissa), under the signature of the chiefs of the late provincial councils and the seals of those councils, agreeably to an authority vested in them by Government for granting land to be held exempt from the payment of revenue, the annual produce of which did not exceed one hundred rupees.

Exception in favour of grants made by Chiefs of provincial councils

Fourth.—Nor to authorize the subjecting to the payment of revenue any land the grants for which, whether for the life of the grantee or otherwise, were made previous to the commencement of [the Bengal year 1178 or] the [2] *Fash* or [2] *Wilyati* year 1179 (according as the land may be situated in [Bengal,] Bihar and Orissa), where the quantity of land granted shall not exceed ten *bighas*, and the produce of it is *bona fide* appropriated as an endowment on temples, or to the maintenance of *Brahmans*, or other religious or charitable purposes.

And also of certain grants made for religious or charitable purposes.

The rule in this clause is declared to extend also to all grants of land whatever, not exceeding ten *bighas*, made previous to the *Diwan*, the produce of which may be now so appropriated.

4. This Regulation, as far as regards lands alienated previous to the 1st December, 1790, respects only the question whether they are liable to the payment of revenue or otherwise.

Disputes regarding proprietary right.

Every dispute or claim regarding the proprietary right in lands alienated previous to that date, and which, in conformity to this Regulation, may become subject to the payment of revenue, is to be considered as a matter of a private nature, to be determined by the Courts of *Duwani Adalat*, in the event of any dispute or claim arising, respecting

[1] The words "Governor General in Council," in the original text, are to be read as if "The Board of Directors" were substituted therefor—see the Amending Act, 1833.

(Secs. 5-6.)

it between the grantee and the grantor, or their respective heirs or successors.

The grantees, or the present possessors, until dispossessed by a decree of the *Diwani Adalat*, are to be considered as the proprietors of the lands, with the same right of property therein as is declared to be vested in proprietors of estates or dependent *taluks* (according as the land may exceed or be less than one hundred *bighas* as specified in sections 6, 7 * *^[1]), subject to the payment of revenue, and they are to execute engagements for the revenue with which their lands may be declared chargeable, either to Government, or to the proprietor or farmer of the estate in which the lands may be situated, or to the officer of Government (according as the revenue of the estate in which the land may be situated may be payable by the proprietor or a farmer, or collected *khas*), under the rules for the decennial settlement.

If by the decision of the *Diwani Adalat* the proprietary right in the land shall be transferred, the person succeeding thereto is, in like manner, to be responsible for the payment of the revenue assessed or chargeable thereon.

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5. By continuing the proprietary right in the land to the grantee or possessor, in the cases specified in the preceding section, instead of dispossessing him of the land altogether, agreeably to former usage, and assessing the land in the mode prescribed in the two following sections, a liberal provision will be left to him.

Where the grant may have been made before [*the Bengal year 1178 or*] the [²] *Fasli* or [³] *Wilayati* year 1179, the proprietor will hold his land as an estate paying a fixed revenue of only half the amount assessed on other *mālguzāri* lands in the country;

and, where the grant may have been made subsequent to the above-mentioned periods, he will hold the land as subject to the payment of the same revenue as other lands assessed with revenue, under the rules for the decennial settlement, as hereafter directed.

to whom
the
revenue
shall be
paid on
lands not
exceeding
100 *bighas*,
before
1st
December
1790, is to

6. The revenue assessable under section 9 on land not exceeding one hundred *bighas* of the measurement that may prevail in the *pargana* wherein it may be situated, and whether lying in one village, or two or more villages, and that may have been alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, shall belong to the person

[¹] The word and figure "and 21," in s. 4, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[²] i.e., 26th September, 1771.

[³] i.e., 15th September, 1771.

(Secs 7 8)

responsible for the discharge of the revenue of the estate or dependent *taluk* in which the land may be situated, notwithstanding anything said in section 8, Regulation 1, 1793^[1],

and he shall not be liable to the payment of any additional revenue on account of the assessment which may be chargeable on such lands during the continuance of the engagement under which he may pay the revenue of such estate or dependent *taluk*, when the land may be so adjudged liable to the payment of revenue

If the estate or dependent *taluk* shall be held *khas*, when the lands are decreed liable to the payment of revenue, the amount is to be collected by, and paid to, whomsoever the rents and revenue of the estate or *taluk* may be payable, until a settlement shall be concluded for the revenue of it, either with the proprietor or a farmer

The land which may be so adjudged subject to the payment of the revenue is to be considered as a dependent *taluk*

7. The revenue assessable under section 8 on land exceeding one hundred *bighas* of the measurement that may prevail in the *pargana* wherein it may be situated and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government

Revenue on lands exceeding 100 *bighas*, alienated prior to 1st December, 1790, to belong to Government.

The lands specified in this section, which may be adjudged liable to the payment of revenue, are to be considered as independent *taluks*

8 *First* —The amount of the revenue payable from the lands specified in section 7 is to be adjusted according to the following rules

Rules for assessment under section 7

Second —If the grant shall have been made previous to [the Bengal year 1178 or] the [2] *Fashi* or [3] *Wilyati* year 1179 (according as the lands may be situated in [Bengal], Bihar or Orissa), the revenue to be paid to Government shall be equal to one half of the annual produce of the land, calculating according to the rates at which other lands in the *pargana* of a similar description may be assessed

If grant made previous to Bengal year 1178 or [Fashi] or [Wilyati] year 1179

If any part of the land shall be uncultivated, the proprietor is to be required to bring it into cultivation, and to pay such *rasad* or progressive increase, to be regulated with a reference to the reduced rate of the

[1] The Bengal Permanent Settlement Regulation, 1793 It is printed ante p 3

[2] : e, 26th September, 1771

[3] : e, 15th September, 1771

(Sec. 9.)

assessment on the cultivated lands, as the Board of Revenue^[1], with the sanction of the^[2] [Local Government], may deem reasonable.

The produce of the land shall be ascertained by a survey and measurement, one-half of the expense attending which is to be defrayed by the proprietor, in the event of his agreeing to the *jama* required of him, and the other moiety by Government; or by such other mode of investigation as the Collector,^[3] with the sanction of the Board of Revenue,^[1] may judge advisable.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *khas*, under the rules prescribed in Regulation 8, 1793.^[4]

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the lands at such fixed revenue for ever.

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Third.—If the grant shall have been made subsequent to [the Bengal year 1178 or] the ^[5]*Fasli* or ^[6]*Wilayati* year 1179 (according as the lands may be situated in [Bengal], Bihar or Orissa), the revenue or *jama* to be paid to Government from the land shall be assessed agreeably to the rules prescribed in Regulation 8, 1793,^[4] for forming the settlement of estates paying revenue to Government, and the produce shall be ascertained, and the expense of the investigation defrayed, in the manner specified with regard to the lands in the preceding clause.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *khas*, under the rules for the decennial settlement.

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the land at such fixed revenue for ever.

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9. The rules in the preceding section are to be held applicable to the lands specified in section 6; with this difference, that the proprietor,

[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), in Vol. III of this Code.

[2] The words "Governor-General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 701.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7. of 1822), s. 35, *post*, p. 267.

[4] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 31.

[5] i.e., 26th September, 1771.

[6] i.e., 15th September, 1771.

(Sec 10.)

farmer, dependent *talukdar* or officer of Government to whom the revenue may be payable shall ascertain the produce of the lands without subjecting the grantee to any expense, and submit the accounts of it to the Collector,^[1] who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirmation of the Board of Revenue,^[2] who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount

If the proprietor shall agree to pay the revenue required of him, he and his heirs and successors shall hold the lands as a dependent *taluk*, subject to the payment of such fixed revenue for ever

[3]10 All grants for holding land exempt from the payment of revenue whether exceeding or under one hundred *bighas*, that have been made since the 1st December, 1790, or that may be hereafter made, by any other authority than that of the^[4] [Governor General in Council or the Local Government], are declared null and void, and no length of possession shall be hereafter considered to give validity to any such grant, either with regard to the property in the soil or the rents of it

Grants made since 1st December, 1790, declared void.

And every person who now possesses, or may succeed to, the proprietary right in any estate or dependent taluk, or who now holds or may hereafter hold any estates or dependent taluk in farm of Government, or of the proprietor, or any other person, and every officer of Government appointed to make the collections from any estate or taluk held khas, is authorized and required to collect the rents from such lands at the rates of the pargana, and to dispossess the grantee of the proprietary right in the land, and to re annex it to the estate or taluk in which it may be situated, without making previous application to a Court of Judicature, or sending previous or subsequent notice of the dispossession or annexation to any officer of Government.^[5]

ra by other officers, see the Bengal Land
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ard of Revenue by other authorities, see
issa Board of Revenue Act, 1913 (B and
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Sch II *post* p 701

and dependent *taluks* (in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the 1st December, 1790) of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and to re annex it to the estate or *taluk* in which it may be situated has been repealed by the Bengal Rent Act, 1859 (10 of 1859), s 28, printed in the Bengal Code, Vol I, p 393

(Sec. 9.)

assessment on the cultivated lands, as the Board of Revenue^[1], with the sanction of the^[2] [Local Government], may deem reasonable.

The produce of the land shall be ascertained by a survey and measurement, one-half of the expense attending which is to be defrayed by the proprietor, in the event of his agreeing to the *jama* required of him, and the other moiety by Government; or by such other mode of investigation as the Collector,^[3] with the sanction of the Board of Revenue,^[1] may judge advisable.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *khas*, under the rules prescribed in Regulation 8, 1793.^[4]

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the lands at such fixed revenue for ever.

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Third.—If the grant shall have been made subsequent to [the Bengal year 1178 or] the ^[5]*Fasli* or ^[6]*Wilayati* year 1179 (according as the lands may be situated in [Bengal], Bihar or Orissa), the revenue or *jama* to be paid to Government from the land shall be assessed agreeably to the rules prescribed in Regulation 8, 1793,^[4] for forming the settlement of estates paying revenue to Government, and the produce shall be ascertained, and the expense of the investigation defrayed, in the manner specified with regard to the lands in the preceding clause.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *khas*, under the rules for the decennial settlement.

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the land at such fixed revenue for ever.

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9. The rules in the preceding section are to be held applicable to the lands specified in section 6; with this difference, that the proprietor,

[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), in Vol. III of this Code.

[2] The words "Governor-General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 701.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7. of 1822), s. 35, *post*, p. 267.

[4] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 31.

[5] i.e., 26th September, 1771.

[6] i.e., 15th September, 1771.

(Sec. 10)

farmer, dependent talukdar or officer of Government to whom the revenue may be payable shall ascertain the produce of the lands without subjecting the grantee to any expense, and submit the accounts of it to the Collector; [1] who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirmation of the Board of Revenue; [2] who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount.

If the proprietor shall agree to pay the revenue required of him, he and his heirs and successors shall hold the lands as a dependent taluk, subject to the payment of such fixed revenue for ever.

[3] 10. All grants for holding land exempt from the payment of revenue whether exceeding or under one hundred *bighas*, that have been made since the 1st December, 1790, or that may be hereafter made, by any other authority than that of the [4] [Governor General in Council or the Local Government], are declared null and void, and no length of possession shall be hereafter considered to give validity to any such grant, either with regard to the property in the soil or the rents of it.

And every person who now possesses, or may succeed to, the proprietary right in any estate or dependent taluk, or who now holds or may hereafter hold any estates or dependent taluk in farm of Government, or of the proprietor, or any other person, and every officer of Government appointed to make the collections from any estate or taluk held khas, is authorized and required to collect the rents from such lands at the rates of the pargana, and to dispossess the grantee of the proprietary right in the land, and to re-annex it to the estate or taluk in which it may be situated, without making previous application to a Court of Judicature, or sending previous or subsequent notice of the dispossession or annexation to any officer of Government; [5]

[1] As to the revenue of the taluk, see the Bengal Land-revenue Settlement Regulation, 1825, s. 8, post, p. 297.

[2] As to references cite O. Act 1 of 1

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[4] The words "Governor General in Council" in the

as if the words "Governor General in Council" therefor—see the Amending Act, 1903 (1 of 19

[5] So much of s. 10 as authorises and dependent taluks (in cases in which grant of revenue have been made subsequent authority to collect the rents of such land and right in the land and to re-annex it to the

has been repealed by the Bengal Rent Act, Bengal Code, Vol. I, p. 393.

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Board of Revenue by other authorities, see the Bengal Land-revenue Settlement Regulation, 1825, s. 35, post, p. 257.

Board of Revenue Act, 1913 (B. and

Land-revenue Settlement Regulation, 1825

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has been repealed by the Bengal Rent Act, Bengal Code, Vol. I, p. 393.

Land-revenue Settlement Regulation, 1825, s. 35, post, p. 257.

Board of Revenue Act, 1913 (B. and

(Secs. 11-15.)

nor shall any such proprietor, farmer or dependent *talukdar* be liable to an increase of assessment on account of such grants which he may resume and annul, during the term of the engagements that he may be under for the payment of the revenue of such estate or *taluk* when the grant may be so resumed and annulled.

The managers of the estates of disqualified proprietors, and of joint-undivided estates, are authorized and required to exercise, on behalf of the proprietors, the powers vested in proprietors by this section.

11. Proprietors or farmers of land, or dependent *talukdars*, who may deem themselves entitled to the revenue of any land of the description of that specified in section 6 situated in their respective estates, farms or *taluks*, are to institute a suit for the recovery of it in the Court of *Diwani Adalat*.

Any proprietor or farmer of land, or dependent *talukdar*, or other person, subjecting such lands to the payment of revenue, without having previously obtained a judicial decree for that purpose, shall be liable to be sued for damages by the parties injured.

Where estates or dependent *taluks* may be held *khas*, the right of suing for the recovery of the revenue from the lands specified in section 6 is to be considered as vested in the party to whom the collections from the estate or *taluk* may be payable.

If the estate or *taluk* be held *khas* by Government, the *tahsildar* or other officer is to sue for the revenue chargeable on such lands in the room of the proprietors, but under the directions of the Collector.^[1]

12 to 14. (*Suits by Collectors for the recovery of invalid lakhiraj.*) *Rep. by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).*

15. The Collectors^[1] of the revenue are to defend all suits that may be instituted against Government by any individual claiming a right to hold lands exempt from the payment of public revenue; and such suits, and the suits which the Board of Revenue^[2] may direct the Collector^[1] to institute, are to be defended and prosecuted by the *vakil* of Government under the instructions of the Collector^[1];

and in the event of Government being cast, either wholly or in part, or if the Collector^[1] shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation 14, 1793,^[3] and the

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, post, p. 267.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

[3] Ben. Reg. 14 of 1793 was repealed by the Repealing Act, 1874 (16 of 1874); but this reference is saved by the proviso to that Act.

(Secs 16-20)

other sections in that Regulation respecting decisions given against a Collector in any *Zila* Court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree, with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue^[1] not deeming it proper to order an appeal against the decision of the *Zila* Court to be preferred to the Provincial Court of Appeal, or against the decision of the Provincial Court to the *Sadâr Diwani Adalat*, in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein, they are to report their reasons, in both cases, for not preferring the appeal, to the^[2] [Local Government], who will direct the cause to be appealed, or not, in either case as may appear to^[3] [it] proper

16. (*Courts to award costs in cases of groundless prosecution*) *Rep by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819)*

17. If it shall appear to any Court of Judicature during the course of a trial that a grant for land to be held exempt from the payment of revenue, dated prior to the 1st December, 1790, has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination of the tenure in the original grant has been erased or altered, or that the date of the grant has been changed, or that the grant has been ante dated, the grant shall be adjudged null and void, as far as regards the exemption of the land from the payment of revenue, and the land shall be subjected to the payment of revenue accordingly

Grants forged or altered in any respect or ante dated, declared void.

18. (*Persons concerned in fraud liable to criminal prosecution*) *Rep by the Repealing Act, 1874 (16 of 1874).*

19. (*Revenue to be paid from date of first decree for resumption*) *Rep by the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819).*

20. Grants of land, which from the terms of the grant or the nature of the tenure are hereditary, and are declared valid by this Regulation, Transfer of grants

[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913), s 3 in Vol III of this Code.

[2] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II *post*, p 701

[3] The word "him," in the original text, is to be read as if the word "it" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, *post*, p 701

(Secs. 21-26.)

or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise;

and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector^[1] within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

21, 22. (*Payment of revenue where to be made; register of lands held exempt from revenue prior to 1st December, 1790.*) Rep. by the Land Registration Act, 1876. (Ben. Act 7 of 1876).

23. (*Form for periodical Register.*) Rep. by the Repealing Act, 1868 (8 of 1868).

24. All persons actually holding lands exempt from the payment of public revenue, whether exceeding or under one hundred *bighas*, in virtue of grants made previous to the 1st December, 1790, and whether made or confirmed by the Government of the country for the time being, or any other authority, shall be allowed one year from the date of the publication prescribed in the following section to register the required particulars respecting their grants in the office of the Collector^[1] of the revenue of the *zila* in which the lands may be situated.

25. (*Publication to be made, requiring all persons to register grants.*) Rep. by the Amending Act, 1903 (1 of 1903).

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26. If any person in possession of any such grant of land now held exempt from the payment of revenue shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the land included in the grant shall, by such omission, become subject to the payment of revenue in the same manner as if it had been adjudged liable to the payment of revenue by a final decree of a Court of Judicature, and the Collector,^[1] if the land shall exceed one hundred *bighas*, shall proceed to assess the lands accordingly; and, if it shall be under one hundred *bighas*, the party to whom the revenue of the land may be

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

(Secs. 27-46)

payable under section 6 is empowered to assess the lands as therein directed.

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor of the land showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue^[1] are to report to the Governor General in Council every case in which persons who may have omitted to register their grant as required may appear to them entitled to have their grants admitted upon the register

27. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared invalid, as far as regards the exemption from the payment of revenue, and the land shall be assessed with revenue as directed in section 26

Grant not registered within prescribed period, etc. invalid

28. It is expressly declared, however, that the registry of grants under this Regulation is not to be considered as an admission of the right of the person in whose name they may be registered to the property in the soil, or of his title to hold the lands exempt from the payment of revenue

Effect of registry of lands

Any person will be at liberty to sue him in the *Diwan Adalat* for the former, and he will be liable to be sued for the recovery of the latter by the Collector^[2] with the sanction of the Board of Revenue^[1] in the event of it appearing to that Board that the lands are liable to the payment of revenue

29 to 34. (*Preparation of registers; counterpart register, entries regarding exempted lands and documents respecting same*) Rep by the Land Registration Act, 1876 (Ben Act 7 of 1876)

35 (*How separations and annexations of exempted lands are to be notified to the Courts*) Rep by the Amending Act, 1903 (1 of 1903).

36 to 46. (*Registers of intermediate resumptions, and periodical registers, correction of errors in same, registry of disputed grants; liability of holders of grants to furnish information, to whom copies of periodical registers are to be sent, penalty for receiving bribes in connection with the registry of grants*) Rep by the Land Registration Act, 1876 (Ben Act 7 of 1876)

[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1913 of 1913) and this Code of Collectors by other officers, see the Bengal Land Revenue Regulation, 1822, s. 35, post, p. 267.

(Secs. 21-26.)

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and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector^[1] within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

21, 22. (*Payment of revenue where to be made; register of lands held exempt from revenue prior to 1st December, 1790.*) Rep. by the Land Registration Act, 1876. (Ben. Act 7 of 1876).

23. (*Form for periodical Register.*) Rep. by the Repealing Act, 1868 (8 of 1868).

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25. (*Publication to be made, requiring all persons to register grants.*) Rep. by the Amending Act, 1903 (1 of 1903).

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26. If any person in possession of any such grant of land now held exempt from the payment of revenue shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the land included in the grant shall, by such omission, become subject to the payment of revenue in the same manner as if it had been adjudged liable to the payment of revenue by a final decree of a Court of Judicature, and the Collector,^[1] if the land shall exceed one hundred *bighas*, shall proceed to assess the lands accordingly; and, if it shall be under one hundred *bighas*, the party to whom the revenue of the land may be

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

(Secs. 27-46.)

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The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor of the land, showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue^[1] are to report to the Governor General in Council every case in which persons who may have omitted to register their grant as required may appear to them entitled to have their grants admitted upon the register.

27. After the expiration of the period limited for registering grants, Grant not registered within prescribed period, etc., all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared invalid, as far as regards the exemption from the payment of revenue, and the land shall be assessed with revenue as directed in section 26.

28. It is expressly declared, however, that the registry of grants under this Regulation is not to be considered as an admission of the right of the person in whose name they may be registered to the property in the soil, or of his title to hold the lands exempt from the payment of revenue. Effect of registry of lands.

Any person will be at liberty to sue him in the *Diwani Adalat* for the former, and he will be liable to be sued for the recovery of the latter by the Collector^[2] with the sanction of the Board of Revenue^[1] in the event of it appearing to that Board that the lands are liable to the payment of revenue.

29 to 34. (*Preparation of registers; counterpart register; entries regarding exempted lands and documents respecting same.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

35. (*How separations and annexations of exempted lands are to be notified to the Courts.*) Rep. by the Amending Act, 1903 (1 of 1903).

36 to 46. (*Registers of intermediate resumptions, and periodical registers; correction of errors in same; registry of disputed grants; liability of holders of grants to furnish information; to whom copies of periodical registers are to be sent; penalty for receiving bribes in connection with the registry of grants.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

^[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

^[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

(Secs. 47-49.)

les respect- 47. All the rules in this Regulation respecting lands now held, or
life-grants that may be claimed to be held, exempt from the payment of revenue,
licable to under life-grants made previous to the date of the Company's accession to
nts for a the *Diwani*, are to be considered equally applicable to grants made pre-
vious to that date for a term only.

ving of 48. No part of this Regulation is to be considered to annul any
ants made grants for holding land exempt from the payment of revenue, made or
confirmed late super- confirmed by the late superintendents of the *bazi-zamin daftar* in
late super- tendents of Bengal, in virtue of the powers vested in them.
tendents of e bazi-
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ahi grants.

49. Nor to extend to *jagir*, *altamgha*, *mudadmash*, *aima* or other
grants of land termed *badshahi* or royal, and held, or stated to be held,
under a royal *farman*.

The rules applicable to such grants are contained in Regulation 37,
1793.[¹]

[¹] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed
post, p. 67.

BENGAL REGULATION 37 of 1793

[THE BENGAL REVENUE FREE LANDS (BADSHAHI GRANTS) REGULATION, 1793]

CONTENTS

SECTION

- 1 Preamble
- 2 *First*—*Badshahi* grant made before *Diwani*
Second—Procedure in case of doubts as to authority of officer having resumed grants
Third—Persons not being original grantees not entitled to hold lands free
Fourth—Nor also heirs of persons now possessing exempted lands under life grants made previous to *Diwani*
Fifth—Present possessors not to transfer or mortgage grants
- 3 *First*—Certain grants made or confirmed since *Diwani* declared invalid
Second—Procedure in cases of doubt of authority of officer confirming grant
- 4 Questions regarding proprietary right to be determined in *Diwani Adalat*
- 5 Collectors to attach revenue of lands in escheated grants
- 6 Assessment of lands included in resumed grants
- 7 to 9 (*Repealed*)
- 10 Suits against Government by persons claiming to hold lands paying revenue exempt from revenue under *Badshahi* grants
- 11 (*Repealed*)
- 12 Grants forged or altered in any respect, or ante dated, declared void
- 13, 14 (*Repealed*)
- 15 Transfer of grants
- 16 to 18 (*Repealed*)
- 19 Time for registry
- 20 (*Repealed*)
- 21 Grants not registered within prescribed time liable to resumption
- 22 Grants not registered considered forfeited
- 23 Effect of registry of grants
- 24 to 41 (*Repealed*)
- 42 Regulation not to extend to grants not *Badshahi*

BENGAL REGULATION 37 OF 1793.

[THE BENGAL REVENUE-FREE LANDS (BADSHAHI GRANTS)
REGULATION, 1793.][¹]

(1st May, 1793.)

A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold *altamgha*, *jagir* and other lands exempt from the payment of public revenue, under grants termed *badshahi* or royal, and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid.

1. By the ancient law of the country the ruling power is entitled to Preamble.
a certain proportion of the produce of every *bigha* of land, unless it transfers its right thereto for a term or in perpetuity.

As a necessary consequence of this law every grant or alienation of Government's proportion of the produce of lands without its sanction was considered null and void

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see *post*, p 684

LOCAL EXTENT.—This Regulation was declared, by the Cuttack Land revenue Regulation, 1805 (12 of 1805), s 25 (printed *post*, p 103), to be in force, with modifications, in the *Zila* of Cuttack

The Regulation was afterwards declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (in General Acts, 1868 78, Ed 1909, p 453), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It is in force in the Sonthal Parganas, see Vol IV, Part IV, but its application is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p 664

OTHER ENACTMENTS.—Further Regulations dealing with revenue free lands are the Bengal Revenue free Lands (Non Badshahi Grants) Regulation, 1793 (19 of 1793), *ante*, p 49, the Bengal Revenue-free Lands Regulation, 1800 (8 of 1800), *post*, p 81, the Bengal Land revenue Settlement (Resumed Kanungos and Revenue free Lands) Regulation, 1825 (13 of 1825), *post*, p 603, and the Bengal Revenue free Lands Regulation, 1825 (14 of 1825), *post*, p 607

The rules prescribed in Regulations 19 and 37 of 1793 for determining the validity of grants for holding lands exempt from the payment of the public revenue have been applied to lands under *mukarrari* or other tenures limited to revenue Assessment (Resumed Lands)

Reg 37 of 1793 (see s. 5 of the 1825 modifies Ben Regs 19 and 37

(Sec. I.)

Had the validity of such grants or alienation been admitted it is obvious that the public revenue would have been liable to gradual diminution.

Under the Native Government grants were occasionally made of the Government's share of the produce of lands, for the support of the families of persons who had performed public services, for religious or charitable purposes, for maintaining troops and for other services.

The British Government continued to the grantees or their heirs such of these grants as were hereditary, and were made before the date of the Company's accession to the *Diwani*, provided the grantees or their heirs had obtained possession previous to that date; but those grants which were for life only have been invariably considered as resumable on the death of the grantees.

No complete register of these grants having been formed on the Company's accession to the *Diwani*, nor subsequent to that period, many persons have retained possession of lands under fabricated or ante-dated grants, or have succeeded to life-grants on the demise of the original grantee or former possessor, without the sanction of Government.

The Governor General in Council deeming it incumbent on him to resume the public dues from lands held under invalid tenures, as well as the revenue of all lands the grants for which might expire, and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated or were appropriated without authority, the amount of the revenue of the lands having in both cases been excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation 8, 1793^[1], that the *jama* assessed upon the estates of individuals was to be considered as exclusive and independent of all existing *lakhiraj* lands, whether exempted from the *khiraj* or public revenue, with or without due authority;

and by the third clause of the seventh article of the Proclamation contained in Regulation 1, 1793,^[2] which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles.

[1] The Bengal Decennial Settlement Regulation, 1793. Section 36 is printed *ante*, p. 35.

[2] The Bengal Permanent Settlement Regulation, 1793. It is printed *ante*, p. 3.

(Sec 2)

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands held under invalid tenures, is equally solicitous that persons holding lands under grants that are declared valid should be secured in the quiet possession and enjoyment of them

With this view, and to obviate all injustice or extortion in the inquiry into the titles of persons possessing lands under such grants, he has resolved that all claims of the public for the resumption of such grants (provided the grantees or persons in possession register their grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such grants may be resumed until the title of the grantee or present possessor shall have been adjudged invalid by a final judicial decree

Upon the above grounds, and with a view to facilitate the resumption of invalid grants, as well as to prevent any grants being hereafter made without the authority of Government, and further that Government and its officers may at all times have in their possession a correct register of the lands in the several *zilas* held exempt from the payment of revenue under *badshahi* grants, the following rules, containing the rules passed on the 23rd April, 1788, and subsequent dates, with modifications, have been enacted

2 *First*—*Altamgha, jagir, aima, madadmash* or other *badshahi* grants for holding land exempt from the payment of revenue, made previous to the 12th August, 1765, the date of the Company's accession to the *Diwani*, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to that date and the grant shall not have been subsequently resumed by the officers or the orders of Government

Badshahi grants made before Diwani

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid

Second—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a *badshahi* grant made previous to the date of the Company's accession to the *Diwani*, and on it being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts

Procedure in case of doubt as to authority of officer having resumed grants,

(Sec. 1.)

Had the validity of such grants or alienation been admitted it is obvious that the public revenue would have been liable to gradual diminution.

Under the Native Government grants were occasionally made of the Government's share of the produce of lands, for the support of the families of persons who had performed public services, for religious or charitable purposes, for maintaining troops and for other services.

The British Government continued to the grantees or their heirs such of these grants as were hereditary, and were made before the date of the Company's accession to the *Diwani*, provided the grantees or their heirs had obtained possession previous to that date; but those grants which were for life only have been invariably considered as resumable on the death of the grantees.

No complete register of these grants having been formed on the Company's accession to the *Diwani*, nor subsequent to that period, many persons have retained possession of lands under fabricated or ante-dated grants, or have succeeded to life-grants on the demise of the original grantee or former possessor, without the sanction of Government.

The Governor General in Council deeming it incumbent on him to resume the public dues from lands held under invalid tenures, as well as the revenue of all lands the grants for which might expire, and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated or were appropriated without authority, the amount of the revenue of the lands having in both cases been excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation 8, 1793^[1], that the *jama* assessed upon the estates of individuals was to be considered as exclusive and independent of all existing *lakhiraj* lands, whether exempted from the *khiraj* or public revenue, with or without due authority;

and by the third clause of the seventh article of the Proclamation contained in Regulation 1, 1793,^[2] which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles.

^[1] The Bengal Decennial Settlement Regulation, 1793. Section 36 is printed *ante*, p. 35.

^[2] The Bengal Permanent Settlement Regulation, 1793. It is printed *ante*, p. 3.

(Sec 2)

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands held under invalid *tenures*, is equally solicitous that persons holding lands under grants that are declared valid should be secured in the quiet possession and enjoyment of them

With this view, and to obviate all injustice or extortion in the inquiry into the titles of persons possessing lands under such grants he has resolved that all claims of the public for the resumption of such grants (provided the grantees or persons in possession register their grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such grants may be resumed until the title of the grantee or present possessor shall have been adjudged invalid by a final judicial decree

Upon the above grounds, and with a view to facilitate the resumption of invalid grants, as well as to prevent any grants being hereafter made without the authority of Government and further that Government and its officers may at all times have in their possession a correct register of the lands in the several *zilas* held exempt from the payment of revenue under *badshahi* grants, the following rules containing the rules passed on the 23rd April, 1788, and subsequent dates, with modifications, have been enacted

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Badshahi grants made before Diwani

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid

Second—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a *badshahi* grant made previous to the date of the Company's accession to the *Diwani*, and on it being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts

Proceeding in case of doubt as to authority of officer having resumed grants,

(Sec 2.)

as to the competency of such officer, under the powers vested in him, to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the^[1] [Local Government], to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and, upon receiving the determination of the^[1] [Local Government], the Court is to decide accordingly.

No such claim, however, to hold exempt from the payment of revenue, land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any *Zila* or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent authority within the twelve years * * *^[2].

Persons not being original grantees not entitled to hold lands free;

Third.—But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee entitled to hold land paying revenue to Government, exempt from the payment of revenue, under a *jagir* or other grant made previous to the Company's accession to the *Diwani*, where the grant may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

Nor also heirs of persons now possessing exempted lands under life-grants made previous to *Diwani*

Fourth.—Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue under a *jagir* or other *badshahi* life-grant made previous to the *Diwani* to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor; where the grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where from the nature and denomination of the grant it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Present possessors not to transfer or mortgage grants.

Fifth.—The present possessors of lands now exempt from the payment of revenue under such *jagir* or other life-grants made previous to the *Diwani* and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives

^[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 701.

^[2] The words and figures "and proceeded in it as required by section 14, Regulation 3, 1793," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Secs. 3-6.)

and all such transfers and mortgages which have been or may be made are declared illegal and void.

3. *First*.—All *badshahi* grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1765, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid. Certain grants made or confirmed since. *Diwans* declared invalid.

Second.—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment and report the circumstances of the case to the [1][Local Government], to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the [1][Local Government], shall decide accordingly. Procedure in cases of doubt of authority of officer confirming grant.

4. It is to be understood that this Regulation respects only the Government proportion of the revenue arising from lands held or claimed to be held under *badshahi* grants, and whether Government is entitled to resume or retain such revenue or otherwise. Questions regarding proprietary right to be determined in *Ducani Adalat*.

Every dispute or claim regarding the *zamindari* or proprietary right in lands included in any grant is to be considered as a matter of a private nature between the contending parties, and is to be determined in the *Ducani Adalat*.

5. When a *jagir* or other life-grant shall escheat[2] to Government, the Collector[3] is immediately to attach the revenue of the lands and report the circumstance to the Board of Revenue,[4] who are to obtain the orders of the [1][Local Government] regarding the resumption of the grant. Collectors to attach revenue of lands included in escheated grants.

6. When any *badshahi* grant shall be resumed or expire, or escheat[2] to Government, the revenue to be paid to Government from the lands included in it shall be assessed, and the settlement made in perpetuity, agreeably to the rules for the decennial settlement contained Assessment of lands included in resumed grants.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government," were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, *post*, p 701.

[2] As to the duties of the Board of Revenue in respect of escheats, see the Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810 (19 of 1810), s 7, *post*, p 129

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[4] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s 3, in Vol III of this Code.

(Secs. 7-10.)

in Regulation 8, 1793,^[1] with the person possessing the *zamindari* or proprietary right in the lands, whoever he may be.

If the proprietor shall refuse to pay the *jama* demanded of him, the land shall be held *khas* or let in farm, as directed in that Regulation.

7 to 9. (*Suits by Collectors for the recovery of invalid lakhiraj.*)
Rep. by the Bengal Land-revenue Assessment Regulation, 1819 (2 of 1819).

10. Any person having a claim to hold lands paying revenue exempt from the payment of revenue under a *badshahi* grant must institute his claim against Government, who alone can be the defendant in such suits, in the *Diwani Adalat* of the *zila*, in the same manner as in cases where individuals may claim a right to hold lands paying revenue exempt from the payment of revenue under grants not of the description of those termed *badshahi*, in virtue of Regulation 19, 1793.^[2]

The Collectors^[3] of the revenue are to defend all such suits as may be instituted against Government, and such suits, and the suits which the Board of Revenue^[4] may direct the Collector^[3] to institute, are to be defended or prosecuted by the *vakil* of Government, under the instructions of the Collector;^[3]

and in the event of Government being cast, either wholly or in part, or if the Collector^[3] shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation 14, 1793^[5] and the other sections in that Regulation respecting decisions given against a Collector in any *Zila* Court in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree, with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue^[4] not deeming it proper to order an appeal from the decision of the *Zila* Court to be preferred * * * ^[6]

[1] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 31.

[2] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 49.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[4] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

[5] Ben. Reg. 14 of 1793 was repealed by the Repealing Act, 1874 (16 of 1874); but this reference is saved by the proviso to that Act.

[6] The words "to the Provincial Court of Appeal, or from the decision of the Provincial Court," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

Suits against
Government
by persons
claiming to
hold lands
paying
revenue
exempt from
revenue under
badshahi
grants.

(Secs. 11-15.)

to the *Sadar Diwani Adalat*, * * * *^[1] they are to report their reasons * *^[2] for not preferring the appeal to the [³][Local Government], who will direct the cause to be appealed or not, in either case, as may appear to^[4] [it] proper.

11. (*Courts to award costs in case of groundless prosecution.*) Rep. by the Bengal Land-revenue Assessment (*Resumed Lands*) Regulation, 1819 (2 of 1819).

12. If it shall appear to any Court of Judicature, during the course of a trial, that a grant has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination or the terms of the tenure in the original grant have been erased or altered, or that date of the grant has been changed or that the grant has been ante-dated, the grant shall be adjudged null and void.

Grants forged or altered in any respect, or ante dated declared void.

13. (*Persons concerned in frauds liable to criminal prosecution.*) Rep. by the Repealing Act, 1874 (16 of 1874).

14. (*Revenue to be paid from date of first decree of resumption.*) Rep. by the Bengal Land-revenue Assessment (*Resumed Lands*) Regulation, 1819 (2 of 1819).

15. *Altamgha*, *aima* and *madadmash* grants are to be considered as hereditary tenures.

Transfer of grants.

These and other grants, which from the terms or nature of them may be hereditary and are declared valid by this Regulation, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise, and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector, within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

[¹] The words "in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[²] The words "in both cases," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[³] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, *post*, p 701.

[⁴] The word "him," in the original text, is to be read as if the word "it" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, *post*, p 701.

(Secs. 16-23.)

Jagirs are to be considered as life-tenures only, and with all other life-tenures are to expire with the life of the grantee, unless otherwise expressed in the grant.

16 to 18. (*Record of lands which may become liable to, or exempt from, the payment of revenue; register of badshahi grants; form of periodical register. Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).*)

Time for
registry.

19. All persons actually holding lands exempt from the payment of public revenue under *badshahi* grants, and whether made or confirmed by the Government of the country for the time being, or by whatever authority, shall be allowed one year, from the date of the publication prescribed in the following section, to register the required particulars respecting their grants in the office of the Collector of the Revenue^[1] of the *zila* in which the lands may be situated.

20. (*Publication to be made, requiring all persons to register grants.*) *Rep. by the Amending Act, 1903 (1 of 1903).*

Grants not
registered
within pre-
scribed time
liable to
resumption.

21. If any person in possession of any such grant that may be now in force shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the grant shall, by such omission, become subject to resumption, and the lands shall become liable to the payment of revenue to Government.

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue^[2] are to report to the Governor General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.

Grants not
registered
considered
forfeited.

22. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared forfeited, and the lands shall be assessed with revenue, agreeably to the rules prescribed for the decennial settlement.

Effect of
registry
grants.

23. It is expressly declared, however, that the registry of a grant under this Regulation is not to be considered as an admission of the right

[¹] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, post, p. 267.

[²] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

(Secs. 24-42.)

of the person in whose name it may be registered to the property in the soil, nor of the validity of his grant.

Any person will be at liberty to sue in the *Diwani Adalat* for the former, and he will be liable to be sued for the resumption of the grant by the Collector,^[1] with the sanction of the Board of Revenue,^[2] in the event of it appearing to that Board that the grant is invalid.

24. (*Preparation of register upon expiration of period limited for registry of grants.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

25. (*Preparation of second periodical register.*) Rep. by the Repealing Act, 1874 (16 of 1874).

26 to 29. (*Counterpart register by whom to be kept, in what native languages; manner of recording resumptions, etc.; documents respecting grants by whom to be furnished.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

30. (*Separations and annexations of exempted lands how notified to Courts.*) Rep. by the Amending Act, 1903 (1 of 1903).

31 to 33. (*Register of intermediate occurrences not to fall into arrear; counterpart of same by whom to be kept, manner of correcting errors in registers.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

34. (*Manner of correcting errors in counterpart registers.*) Rep. by the Repealing Act, 1874 (16 of 1874).

35 to 41. (*Registry in case of proprietary right being under litigation; penalty for not furnishing information; to whom copies of periodical registers are to be sent; registers to be carefully preserved; from what materials the periodical register commencing with 1207 and subsequent registers, are to be formed; penalty for receiving bribes.*) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

42. No part of this Regulation is to be considered to extend to lands held, or stated to be held, exempt from the payment of public revenue under grants not being of the description of those termed *badshahi* or royal. Regulation not to extend to grants not *badshahi*.

The rules applicable to such grants are contained in Regulation 19, 1793 [3]

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-
 [2] of the Board of Revenue by other authorities, see
 har and Orissa Board of Revenue Act, 1913 (B
 of this Code
 ds (Non Badshahi Grants) Regulation, 1793 It is
 printed ante, p 49

BENGAL REGULATION 38 OF 1793.

[THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION
REGULATION, 1793] [1]

(1st May, 1793)

A regulation for re-enacting, with modifications, such part of the Rule passed on the 27th June, 1787, as prohibits covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to *zamindars*, independent *talukdars* or other actual proprietors of land, or dependent *talukdars* or farmers of land holding farms immediately of Government, or the under-farmers or *rai-yats* of the several descriptions of proprietors and farmers of land above-mentioned, or their respective sureties
* * [2]

1. At an early period after the establishment of the British Government in this country the servants of the Company employed in the administration of justice and the collection of revenue were prohibited from lending money to the landholders and farmers, and others concerned in the collection or payment of the revenue, in order to guard against the abuses that the powers with which they were invested would have enabled them to practise had they been permitted to engage in such transactions with individuals subject to their official control and authority

[1] SHORT TITLE—This short title was given by the Amending Act, 1897 (5 of 1897), Sch III—see *post*, p 609

LOCAL EXTENT—Ss 1 and 2 of this Regulation have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868 78 Ed 1909 p 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

The same sections have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Parganas Dhalbhum and the Kolhan, in the district of Singhbhum, in the Chota Nagpur Division see Vol IV, Part III It is also in force in the Southal Parganas see Vol IV, Part IV

Its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p 864

APPLICATION—The present Regulation relates to loans by officials As to loans to officials, see the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823 (7 of 1823), *post*, p 279

[2] The remainder of the title, which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted

payment of the arrears by the same process as Collectors are required to observe in requiring discharge of arrears * * *^[1].

If the defaulter shall not liquidate the arrears by the prescribed period, the *tahsildar* or other officer is to report the amount of the arrear to the Collector,^[2] who is to proceed to the recovery of it by the same process as he is directed to observe in recovering arrears due from proprietors or farmers paying revenue immediately to the treasury of the *zila*.

14, 15. (*Imprisonment under Reg. 14 of 1793; security for personal appearance of Native officers.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

^[3]16. If a Collector^[4] shall have a claim, on the part of Government, on any of the Native officers described in the preceding section,^[5] for * * *^[6] papers belonging to Government, he is to require * * *^[7] the delivery of the papers, by a writing under his official seal and signature and the signature of his * * *^[8] head Native officer of his *daftar* for the time being specifying * * *^[9] the particular papers required, and the date and place that may be fixed for the delivery of the * * *^[10] papers.

If the officer shall not * * *^[11] deliver up the papers by the limited time, the Collector^[4] is empowered to apprehend him, and convey him to the gaol of the *Diwani Adalat* of the *zila*, the Judge of which Court shall detain him in confinement until * * *^[12] he shall have delivered up the papers.

[1] The words and figures "by section 3, Regulation 14, 1793," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[3] S. 16, so far as it relates to the recovery of money belonging to the Government, was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[5] S. 15 has been repealed. The Native officers described in it are "*tahsildars, sezawals, amins, sharistadars, munshis, muhurars*, and all native officers entrusted with the receipt or payment of public money or the charge of public accounts."

[6] The words "a balance of accounts, or money or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[7] The words "the payment of the money or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[8] The words "*diwan* or other," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[9] The words "the amount of the money or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[10] The words "money or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[11] The words "discharge the money or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[12] The words "the sum demanded of him shall be discharged or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Secs. 17-18.)

*[1]

In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the Collector^[2] is to proceed against his heirs, by a regular suit in the Court to which they may be amenable, for any claims which Government may have upon the deceased.

The suit is to be carried on by the *vakil* of Government and at the public expense, and the rules in Regulation 14, 1793,^[3] regarding suits so carried on by the Collectors, are to be held applicable to it.

[4]17. If any such Native officer, who may have retained public
 * * *^[5] papers in his possession, shall abscond or not be forthcoming, the Collector^[2] may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the *zila*; or, if he shall have taken refuge in any other *zila*, * * *^[6] and the Collector^[2] shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the Collector^[2] is to apply to the Judge of the *zila* to request the Judge within whose jurisdiction the officer may be or reside, to cause him to be apprehended.

Collectors how to proceed where officers abscond or are not forthcoming.

The Judge to whom the application may be made is to convey the officer in safe custody to the gaol of the *zila* from which he may have absconded.

[4]18. If a Collector^[2] shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by writing to that effect, under the official seal and signature of the Collector to be fixed up in his *cutcherry* and at the place in the *zila* at which the officer may have last resided, the Collector^[2] is empowered to prepare the most accurate statement, that he may be able, of the * * *^[5] papers in the possession of such officer, and proceed against the surety, upon his engagement, for the * * *^[7] papers, in the

Collector how to proceed in case of officer absconding, without having adjusted accounts, or not attending for that purpose.

[1] Certain regulations as to attachment of and sale of property, which were repealed by the Amending Act, 1874 (12 of 1874).

[2] A revenue other officers, see the Bengal Land-revenue post, p 267.

[3] B this repealing Act, 1874 (12 of 1874); but

[4] Ss 17 and 18, so far as they relate to the recovery of money belonging to the Government, were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

[5] The words "money or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[6] The words "or in either of the cities of Patna, Dacca, or Murehidabad," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[7] The words "balance or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Secs. 19-22.)

same manner as if the accounts had been adjusted, and the list of the papers prepared in the presence of the officer;

or he may cause the officer to be apprehended by his own authority under section 16, if he be within the limits of the *zila*, or, if he shall have taken up his abode in any other *zila*, * * *^[1] by application to the Judge, in the manner directed in section 17.

If it should afterwards appear, upon inquiry before the Court * * *^[2] that the papers required were not in his possession, the Collector shall not be liable to pay any damages for having confined him, and all costs that may be incurred in the suit or inquiry shall be paid by the officer.

19. (*Officer or sureties confined for money-demand to be released in certain cases.*) Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Native officer
or their sure-
ties may sue
Collector
whilst in
confinement.

^[3]20. If any such Native officer, or his surety, shall be committed to custody by the Collector^[4] * * *^[5] he shall * * *^[6] be at liberty, whilst in confinement, to sue the Collector by whom he may have been confined, should he deem the demand upon him unjust.

21, 22. (*Appointment of Vakils to defend certain suits; days to be set aside by certain Courts for trial of suits respecting rent or revenue.*) Rep. by the Repealing Act, 1874 (16 of 1874).

^[1] The word "nevertheless," which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

^[2] The words "that no part, or a portion only, of the sum demanded was due from him, or" which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[3] S. 20, so far as it relates to the recovery of money belonging to the Government, was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

^[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

^[5] The words and figures "and shall not obtain his release in the mode specified in section 19," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[6] The word "nevertheless," which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

— BENGAL REGULATION 5 OF 1799

(THE BENGAL WILLS AND INTESTACY REGULATION, 1799) [1]

(3rd May, 1799.)

A Regulation to limit the interference of the Zila * *
***[2] Courts of *Diwani Adalat* in the execution of wills**
and administration to the estates of persons dying
intestate.

1. Doubts having been entertained to what extent, and in what Preamble manner, the Judges of the Zila * * [3] Courts of the *Diwani Adalat* in the Provinces of [Bengal], Bihar, Orissa [and Benares,] are authorised to interfere in cases wherein the inhabitants of the above Provinces may have left wills at their decease, and appointed executors to carry the same into effect, or may have died intestate leaving an estate real or personal, with a view to remove all doubts on the authority of the Zila * * [3] Courts in such cases, and to apply thereto, as far as possible, the principle * * * *[4] that in suits regarding succession and inheritance the Muhammadan laws with respect to

[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see post, p. 609

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see s. 1

It has been declared by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed in General Acts, 1868 78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division, see Vol. IV, Part III

The application of the Regulation in the de-regulationised tracts in Bihar and Orissa is barred as follows, namely—

in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), post, p. 864 and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (5 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899) s. 3, post, p. 832

JUDGES—For power to authorize any Subordinate Judge or *Munsif* to take cognizance
 1 Civil Courts Act,

as to the attached

regulation, see the

und Amending Act,

g Act, 1874 (16 of

* 1793, viz., "which

(Secs. 4-6.)

restricted from interference in such cases, except a regular complaint be preferred * * * [1].

4. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment more heirs of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir;

but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may on investigation be found entitled to succeed thereto.

[2]5. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate, in what cases Judge may appoint administrator for care and management of estate of intestate, may, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or in the latter case until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

[2]6. In all instances of an administrator being appointed under Security to be taken from him, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a

(Secs. 20-22.)

in every instance been made as therein directed (namely, the publication respecting lands held under *badshahi* grants in the principal *cutcherry* of the holders of such grants; and respecting other exempted lands in the principal *cutcherry* of every proprietor and farmer of land paying revenue to Government and of every Native Collector in lands held *khas* by Government; or when the estate, farm or *khas* land may consist of two or more whole *parganas*, or portions of *parganas*, in the principal *cutcherry* of each *pargana* or portion of a *pargana* comprised in such estate, farm or *khas* land), the Collectors are hereby further directed, immediately on the receipt of this Regulation, to ascertain whether the publications above specified have been duly made as prescribed through-out their respective Collectorships; and, if not, they are to cause the same to be made without delay, in the manner prescribed, as well as in their own *cutcherries*, and in the *cutcherries* of the *Diwani* Courts situated within their respective *zilas*; allowing the further period of one year from the date of such publications for the registry of the lands therein specified.

After the expiration of such period any unregistered land found to be held exempt from the payment of revenue is to be assessed, under the provisions contained in the above Regulations, whenever the same may be discovered;

and the Collectors are to enter lands so assessed (together with all other *lakhs* lands which may be brought upon the public assessment) in their succeeding * * * [1] register of estates paying revenue, as well as in their register of intermediate mutations.

20 to 22. (Notice of establishment of new villages and by persons succeeding to landed property; *Kanungos*' records to be delivered to Collector.) Rep. by the Land Registration Act, 1876 (Ben. Act 7 of 1876).

[1] The word "quinquennial," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

BENGAL REGULATION 10 OF 1800.

(THE BENGAL INHERITANCE REGULATION, 1800) [7]

(11th December, 1800)

A Regulation for preventing the division of landed estates in the *Jungle Mahals* of the *Zila* of Midnapore and other Districts.

1. By Regulation 11, 1793,[7] the estates of proprietors of land Freehold dying intestate are declared liable to be divided among the heirs of the deceased agreeably to the Hindu or Muhammadan laws.

A custom, however, having been found to prevail in the *jungle mahals* of Midnapore and other districts, by which the succession to landed estates invariably devolves to a single heir without the division of the property, and this custom having been long established, and being founded in certain circumstances of local convenience which still exist, the Governor General in Council has enacted the following rules to be in force in the Provinces of [*Bengal*,] Bihar and Orissa from the date of its promulgation

2. Regulation 11, 1793,[7] shall not be considered to supersede or affect any established usage which may have obtained in the *jungle mahals* of Midnapore and other districts, by which the succession to landed estates, the proprietor of which may die intestate, has hitherto been considered to devolve to a single heir, to the exclusion of the other heirs of the deceased.

In the *mahals* in question the local custom of the country shall be continued in full force as heretofore, and the Courts of Justice be guided by it in the decision of all claims which may come before them to the inheritance of landed property situated in those *mahals*.

[7] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897),

Local Extent.—This Regulation was passed for the whole of the former Province of Bengal (see s 1), and was extended to the District of Cuttack by the Cuttack Land-revenue Regulation, 1805 (12 of 1805), s 36, post, p 112

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan, in the district of Singbhum, in the Chota Nagpur Division, see Vol IV, Part III

The application of the Regulation, in the de-regulationised tracts in Bihar and Orissa is barred as follows, namely—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), post, p 864,

in the South Parganas, by the South Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the South Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, post, p 832

[7] The Bengal Inheritance Regulation, 1793 It is printed ante, p 43

BENGAL REGULATION I OF 1801.

(THE BENGAL LAND-REVENUE ASSESSMENT REGULATION, 1801.) [7]

(15th January, 1801.)

A Regulation * * * [2] to explain and amend the rules * * * [2] for the division of joint estates, and allotment of the fixed assessment thereupon * * * [2].

1, 2. (Local extent, attachment of estate or farm for arrears of revenue) Rep. by the Repealing Act, 1874 (16 of 1874).

3. (Immediate sale of attached estates, on proprietors refusing to furnish accounts.) Rep. by the Bengal Government Indemnity Regulation, 1822 (11 of 1822).

4. (Distress and sale of personal property in certain cases) Rep. by the Repealing Act, 1874 (16 of 1874).

5 to 7. (Sale of estates in one or more lots.) Rep. by the Bengal Government Indemnity Regulation, 1822 (11 of 1822).

8. Section 10, Regulation I, 1793, [2] prescribes the general rule and principle for the allotment of the fixed assessment upon all divisions of estates, whether publicly sold or transferred by the private act of the proprietors, namely, that the assessment upon the portion of the estate to be separated shall bear the same proportion to its actual produce as the fixed assessment upon the whole estate may bear to its actual produce. This rule is to be strictly observed in all cases, whether of public sale or private transfer, or of division between sharers, heirs or joint proprietors of whatever description;

and it is hereby explained that by the term "actual produce" is to be understood the neat annual rent, or other neat produce receivable by the proprietor, after deducting from the gross rent, or other gross produce, the actual expense of collection and other usual charges of management, inclusive of *pulbandi* or the expense of embankments, and

[7] Short Title—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see post, p 686

al Extent Act,
to be in force
Districts
Districts Act,
Part III.
by the Angul
and Amending
d ante, p 8.

(Sec. 8.)

similar incidental expenses, where such may be paid by the proprietor from his gross receipts; but exclusive of his *malikana* or proprietary income, and all other personal appropriations of the gross produce of his estate, as such can have no claim to consideration in determining the neat produce for an equal division of landed property, or for the allotment of the public assessment thereto in conformity to the prescribed rule.

But the above Regulation further provides that the produce to which the general rule of proportion is to be applied shall be ascertained in the mode that is or may be prescribed by the Governor General in Council * * * [1].

It is hereby enacted that whenever the Collector [2] or other public officer, to whom the allotment of the assessment upon the portion of an estate may be committed, shall have reason to suspect the accuracy of the village-accounts produced by a *patwari*, * * * [3]; or if such accounts shall be found to have been fabricated or altered, or not to be the true accounts, * * * [4]; or if in any case the true village-accounts of the lands, rents, receipts and disbursements may not be forthcoming, but the Collector or other officer, under the powers vested in him * * * [5], shall have obtained satisfactory accounts for the three past years of the lands and rents of the entire *zamindari*, *taluq* or other estate, with a specification of the *malal* or *malals* proposed to be separately assessed,

he shall adjust the assessment upon such *malal* or *malals*, under the general rule of proportion, according to the average neat produce (as above explained) ascertainable from the general accounts of the estate so obtained, without further regard to the village-accounts than may appear to him proper, with a view to compare and check the other accounts:

Provided, however, that in all cases the Collector or other officer shall adopt every authorized measure to obtain the most accurate

[1] The words and figures "and the *patwari* accounts furnished in pursuance of clause Fourth of s. 62, Regulation 8, 1793, for the allotment of the public revenue agreeably to the principles laid down in Regulation 1, 1793, having in many instances proved fallacious or unsatisfactory, and in some instances not being procurable by the officers of Government," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[3] The words and figures "in pursuance of clause Fourth of s. 62, Regulation 8, 1793, or of any other Regulation," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[4] The words "under the process prescribed in clause *Eight* of the above section and Regulation," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[5] The words and figures "by clause *First* of s. 29, Regulation 7, 1799, or any other Regulation," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

(Secs 9 10)

accounts procurable, and shall fully satisfy himself that the accounts from which he may compute the neat produce of an estate to be divided and distinctly assessed are sufficiently accurate to prevent any risk of loss to Government from the proposed allotment of the assessment, without evidence of which no distinct assessment is to be proposed by any Collector[7] or approved by the Board of Revenue[2].

Provided further that nothing in this Regulation shall be understood to authorize the Collectors[7] to fix the amount of the assessment on portion of an estate, whether publicly or privately disposed of, without the sanction of the Board of Revenue[2].

* * * * *

[7].

9. (Statement of land for sale to be submitted without delay) *Rep by the Repealing Act, 1874 (16 of 1874)*

10. All purchasers of lands at the public sales are required to attend the Collector[7] of the district wherein the lands may be situated, either in person or by their representatives duly authorized, and to execute the usual *kabulyat* and *kistband* for the public revenue assessed upon the lands purchased by them

In cases of doubt as to the real purchaser * * * [5] the Collector[7], is authorized to cause the personal attendance of the alleged purchaser at his *cutcherry* if resident within his jurisdiction; or, if the purchaser be resident in any other *zila*, the Collector[7] of such *zila* is authorized and required to cause the attendance of the purchaser at his *cutcherry* on the application of the Collector[7] in whose district the lands may lie, and to make any examination or inquiry

[7] As to the exercise of functions of Collectors by other officers, see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822) s 35, *post*, p 267

[7] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act I of 1913), s 3, in Vol III of this Code

[7] The words and figures, 'or to alter the provisions made for the correction of error or collusion in such allotments, by s 25 Regulation 25, 1799 in cases of private divisions of estates, and by clause Second of s 29 Regulation 7, 1799, in cases of public sales,' in s 8, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[7] The rest of s 8, which was repealed by the Amending Act, 1903 (1 of 1903), is omitted

[7] The words and figures, 'or of suspicion that the purchase has been made in opposition to the rules contained in clauses *Third* and *Fourth* of s 29, Regulation 7, 1799,' which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[7] For power of Board of Revenue to require the attendance of landholders, and to fine persons neglecting to attend, see the Bengal Land revenue Regulation, 1793 (2 of 1793) s 33, *ante*, p 26

For power to fine proprietors and farmers of land for not attending before the Collector, see the Bengal Landholders Attendance Act, 1848 (20 of 1848), *post*, p 35

(Secs. 11-14.)

may be desired by the latter Collector^[1] or by the Board of that m^e,^[2] to whom a full report is to be made in such cases * * *^[3]. Revenues further hereby declared that the Collectors^[1] are generally it is to cause the personal attendance of any landholder or other empowered inhabitant within their respective jurisdictions, when the attendance of such person may be indispensably necessary for the purpose of any authorized public inquiry, or to enable them to perform any part of any public duty, under the Regulations or instructions of the * * *^[4] their p^r Revenue^[2]. Board of no Collector^[1] shall cause the personal attendance of any landholder or other person who may appoint an agent duly authorized to attend for him if the attendance of the agent so appointed shall be sufficient it for the purpose required.

infringement of this rule will subject the Collectors to a prosecution for damages in the Civil Courts;

and whenever they may have occasion to exercise the power now and to be vested in them, they are to issue regular summonses, under declared official seals and signatures, specifying the name, designation and their office of the party summoned, and the purpose or purposes for which residence is required.

his att^r (Sale of shares in an undivided estate.) Rep. by the Bengal Government¹³. (*Division of joint estates, and allotment of the assessment.*)

12, y Ben. Reg. 19 of 1814.

[5].

14., rules regarding separable *taluks* contained in Regulation 8, 1793, [the period of the decennial settlement. The] were never meant to be applied to any new *taluks* constituted since t section 9, Regulation 1, 1793, [7] the *zamindars* and all other Byt^rs of land have been declared at liberty to transfer by sale, gift or otherwise their proprietary rights in the whole or any portion of their as to the exercise of functions of Collectors by other officers, see the Bengal Land-

Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

reference, 1913), s. 3, in Vol. III of this Code. Act 1 of the words and figures "for the orders of the Governor General in Council, as directed in clause *Fourth* of s. 29, Regulation 7, 1799," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

Repealing the words "Governor General in Council or," which were repealed by the Amending Act, 1891 (12 of 1891), is omitted.

[1] The Bengal Decennial Settlement Regulation, 1793. It is printed, *ante*, p. 31. [2] The Bengal Permanent Settlement Regulation, 1793. Section 9 is printed, *ante*, p. 8.

Rules regarding separable *taluks* not applicable to *taluk* constituted since decennial settlement.

Not to enforce personal attendance of principal if that of agent will suffice. Effect of infringement of rule. Summons to persons whose attendance is required.

(Sec. 15.)

respective estates, but by section 10 of the same Regulation it is required that all such transfers be notified to the Collector of the *zila*, that the fixed *jama* assessed upon the whole estate may be apportioned on the several shares in the manner therein prescribed, that the names of the proprietors of each share and the *jama* assessed thereon may be entered upon the public registers, and that separate engagements for the payment of the *jama* assessed upon each share may be executed by the proprietors, who are then forwarded to be considered separate proprietors of distinct estates, but until such notification and separation shall have been made the whole of the estate is declared responsible to Government for the discharge of the fixed *jama* assessed upon it, in the same manner as if no transfer had taken place

* * * * *

It, therefore, any *zamindar* shall have disposed of his proprietary rights in any portion of his *zamindar* subsequently to the promulgation of the Regulation above mentioned, whether under the denomination of an independent *taluq* or otherwise, and the *taluqdar* or other person to whom the portion of an estate may have been so transferred shall have omitted to obtain a separate allotment of the public assessment thereon, in the mode prescribed by the regulations, such transfer, as far as respects the rights of Government, must be considered altogether invalid, and if the land so privately transferred, but not separately assessed, should have been since, or shall be hereafter, included in any public sale for arrears of revenue, the illicit and imperfect private transfer must be deemed to have been altogether done away.

In such cases the lands transferred, until publicly registered and separately assessed, form part of an undivided estate, and as such are liable to be sold for any arrear of revenue which may be due from any part of the estate

Provided, however, that nothing in this section be considered applicable to dependent *taluqs*, or other tenures dependent on the estate to which they are attached, and from which, by their title deeds or otherwise, they are not entitled to be separated as a distinct estate * * *

15 (Applicability of certain rules to Benares) Rep by the Recpealing Act, 1874 (16 of 1874)

[1] The words at 25, 1793, which contained the words "which were repealed" in the words an such tenures, subject with the explanation of the latter in section 7, Regulation 4, 1794, and clause 5 of section 29, Regulation 7, 1793, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

(Secs. 11-14.)

that may be desired by the latter Collector^[1] or by the Board of Revenue,^[2] to whom a full report is to be made in such cases * * * [3]. It is further hereby declared that the Collectors^[1] are generally empowered to cause the personal attendance of any landholder or other Native inhabitant within their respective jurisdictions, when the attendance of such person may be indispensably necessary for the purpose of any authorized public inquiry, or to enable them to perform any part of their public duty, under the Regulations or instructions of the * * * [4].

But no Collector^[1] shall cause the personal attendance of any landholder or other person who may appoint an agent duly authorized to attend for him if the attendance of the agent so appointed shall be sufficient for the purpose required.

Any infringement of this rule will subject the Collectors to a prosecution for damages in the Civil Courts;

and, whenever they may have occasion to exercise the power now declared to be vested in them, they are to issue regular summonses, under their official seals and signatures, specifying the name, designation and residence of the party summoned, and the purpose or purposes for which his attendance is required.

11. (Sale of shares in an undivided estate.) Rep. by the Bengal Government Indemnity Regulation, 1822 (11 of 1822).
12, 13. (Division of joint estates, and allotment of the assessment.) Rep. by Ben. Reg. 19 of 1814.

14. * * *

The rules regarding separable *taluks* contained in Regulation 8, 1793,^[6] were never meant to be applied to any new *taluks* constituted since the period of the decennial settlement.
By section 9, Regulation 1, 1793,^[7] the *zamindars* and all other proprietors of land have been declared at liberty to transfer by sale, gift or otherwise their proprietary rights in the whole or any portion of their

Not to enforce personal attendance of principal if agent will suffice.
Effect of infringement of rule.
Summonses to persons whose attendance is required.
his attendance is required.
Rules regarding separable *taluks* not applicable to *taluk* constituted since decennial settlement.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.
[2] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1915 (B. and O. Act 1 of 1915), s. 3, in Vol. III of this Code.
[3] The words and figures "for the orders of the Governor General in Council, as directed in clause *Fourth* of s. 29, Regulation 7, 1793," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.
[4] The words "Governor General in Council or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.
[5] Portion of s. 14 which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.
[6] The Bengal Decennial Settlement Regulation, 1793. It is printed, *ante*, p. 31.
[7] The Bengal Permanent Settlement Regulation, 1793. Section 9 is printed, *ante*, p. 8.

(Sec. 15.)

respectable estates, but by section 10 of the same Regulation it is required that all such transfers be notified to the Collector of the *zila*, that the fixed *jama* assessed upon the whole estate may be apportioned on the several shares in the manner therein prescribed, that the names of the proprietors of each share and the *jama* assessed thereon may be entered upon the public registers, and that separate engagements for the payment of the *jama* assessed upon each share may be executed by the proprietors, who are then forwarded to be considered separate proprietors of distinct estates, but until such notification and separation shall have been made the whole of the estate is declared responsible to Government for the discharge of the fixed *jama* assessed upon it, in the same manner as if no transfer had taken place.

[1.]

It, therefore, any *zamindar* shall have disposed of his proprietary rights in any portion of his *zamindari* subsequently to the promulgation right in certain cases in of the Regulation above mentioned, whether under the denomination portions of an independent taluk or otherwise, and the *talukdar* or other person to whom the portion of an estate may have been so transferred shall have omitted to obtain a separate allotment of the public assessment thereon, in the mode prescribed by the regulations, such transfer, as respects far as respects the rights of Government, must be considered altogether rights of Government invalid,

and if the land so privately transferred, but not separately assessed, should have been since, or shall be hereafter, included in any public sale for arrears of revenue, the illicit and imperfect private transfer must be deemed to have been altogether done away.

In such cases the lands transferred, until publicly registered and separately assessed, form part of an undivided estate, and as such are liable to be sold for any arrear of revenue which may be due from any part of the estate.

Provided, however, that nothing in this section be considered applicable to dependent taluks, or other tenures dependent on the estate to which they are attached, and from which, by their title deeds or other tenures they are not entitled to be separated as a distinct estate * * * [2.]

15 (Applicability of certain rules to *Benares*) Rep by the Repealing Act, 1874 (16 of 1874)

[1] The words and figures This declaration is also retained in a 28, Regulation of 1793, which contains the specific rules established by Government for the division of *jama* upon the several portions thereof, and Act 1891 (12 of 1891), are omitted.

in section 44 1793 authorities and contents in sections 2 and 5 of that Regulation in the explanation of the latter in section 7, Regulation 4 1794, and clause 7/17 of section 28 Regulation 7 1793, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

BENGAL REGULATION 10 OF 1804.

[THE BENGAL STATE OFFENCES REGULATION, 1804.] [7]

(14th December, 1804.)

A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.

1. Whereas during wars in which the British Government has been engaged against certain of the native powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government;

and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William, [7] the Governor General in Council should declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms in open hostility to the said Government, or in the actual commission of any overt

[7] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. II—see post, p. 609

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see s. 1

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1866-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the Districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum in the district of Singbhum in the Chota Nagpur Division, see Vol. IV, Part III.

It is in force in the following de-regionalized tracts, namely:—
the Angul District—see Vol. IV, Part IV, and
the South Parganas—see Vol. IV, Part IV

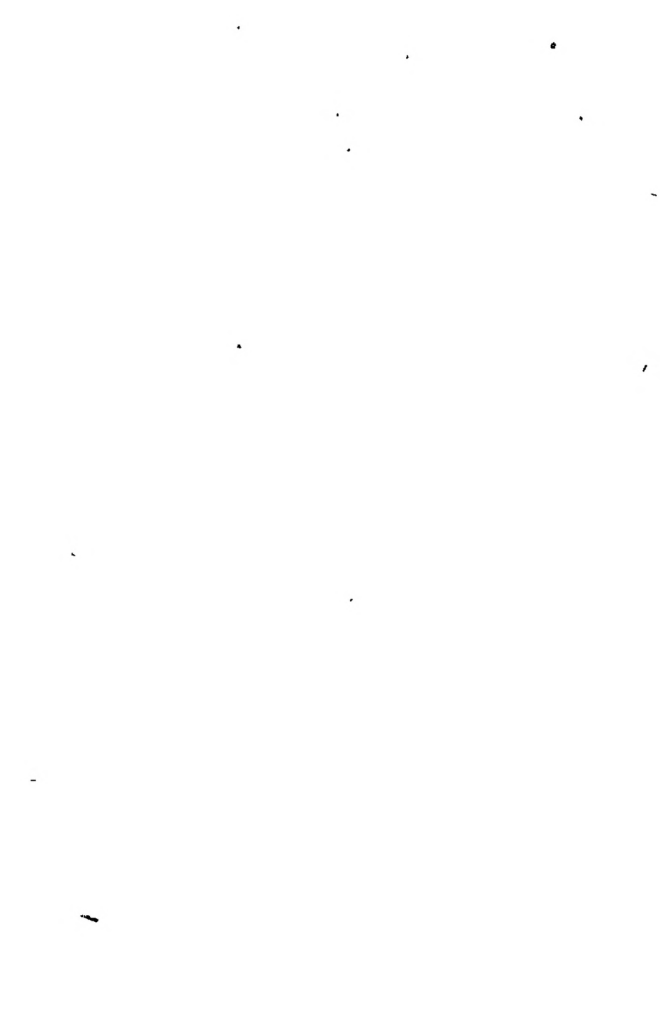
OTHER ENACTMENTS.—As to offences against the State, see also the Indian Penal Code (Act 45 of 1860), Chap. VI, in General Acts, 1834-67, Ed. 1909, p. 130.
As to the trial of State offences when a district is proclaimed to be in a state of rebellion, see the State Offences Act, 1857 (11 of 1857), in General Acts, 1834-67, Ed. 1909, p. 130
[7] This includes the present Province of Bihar and Orissa except the district of Gambharpur.
VOL. I.

(Sec. 4.)

All persons who shall, in such cases, be adjudged by a Court-and to
 martial to be guilty of any of the crimes specified in this Regulation forfeiture of
 shall also forfeit to the British Government all property and effects, property.
 real and personal, which they shall have possessed within its territories
 at the time when the crime of which they may be convicted shall have
 been committed.

4. The Governor General in Council shall not be precluded by this Governor
 Regulation from causing persons charged with any of the offences de- General not
 scribed in the present Regulation to be brought to trial, at any time, precluded
 before the ordinary Courts of Judicature, * * * * [1] instead of from causing
 causing such persons to be tried by Courts-martial, in any cases wherein persons
 the latter mode of trial shall not appear to be indispensably necessary. charged with
 offences to
 be tried by
 ordinary
 Courts.

[1] The words and figures "or before any special Court appointed for the trial of such
 offences, under Regulation 4, 1799, and Regulation 20, 1805," which were repealed by
 the Repealing Act, 1874 (16 of 1874), are omitted.



BENGAL REGULATION 12 of 1805

(THE CUTTACK LAND REVENUE REGULATION, 1805)

CONTENTS.

SECTION,

- 1 Preamble
- 2 to 16 (*Repealed*)
- 17 Modifications of Regulation 19, 1793
- 18 *First*—Validity of grants of alienated lands made before 14th October, 1791.
Second—Validity of grants made after 14th October, 1791, and confirmed or admitted before 14th October, 1803
Third—Reference of doubtful claims to Governor General
Fourth—Rules respecting grants for life only
Fifth—Heirs of present possessors
Sixth—Present possessors not to transfer or mortgage grants
Seventh—Exemption of certain grants for religious or charitable purposes
Eighth—Courts not to take cognizance of certain claims to hold exempted lands
- 19 Grants of land exempt from revenue, made since 14th October, 1803, and not confirmed, declared invalid
- 20 Procedure in case of doubt of authority of officer confirming grant
- 21 Assessing lands resumed under sections 18 to 20
- 22 *First*—Revenue to belong to Government
Second—Assessment regulated by Rules for settlement of revenue paying lands.
Procedure in case proprietor refuses to agree to assessment
- 23 Periods fixed for registering grants and preparing periodical registers
- 24 Regulation 19, 1793, in force in Cuttack.
- 25 Also Regulation 37, 1793
- 26 *First*—"Badshahi grant" defined
Second—Badshahi grants made before 14th October, 1803, declared valid
Third—Procedure in case of doubt as to authority of officers resuming grants
Fourth and Fifth—Rules respecting grants for life only
Sixth—Present possessors not to transfer or mortgage grants
- 27 Grants made since 14th October, 1803, and not confirmed, declared invalid.
- 28 Procedure in case of doubt of authority of officer confirming grant
- 29 Periods fixed for registering grants and preparing periodical registers
- 30 Pensions
- 31 Collection of *saur*, etc, abolished.
- 32 (*Repealed*)
- 33 *Sanads* granted to certain *zamindars* confirmed
- 34 Also *sanad* granted to Fateh Muhammad, *yagirdar* of Malud
- 35 *First*—Also settlement concluded with certain hill and jungle *zamindars*
Second—
Third—Like Settlement to be concluded with *zamindars* of Khurda and Kanika.
- 36 Regulations regarding settlement or collection of revenue, etc, in Bengal extended to Cuttack
Exceptions
- 37 (*Repealed*)

BENGAL REGULATION 12 OF 1805.

(THE CUTTACK LAND-REVENUE REGULATION, 1805.)^[1]

(5th September, 1805.)

A Regulation for the settlement and collection of the public revenue in the Zila of Cuttack,^[2] including the pargana[s] of [Pataspur,] Kamardachor [and Bhingrai] at present included in the Zila of Midnapore.

1. Whereas it is necessary that fixed rules should be established for the settlement and collection of the public revenue in the zila of Cuttack: ^[2]

* * * * *

And whereas it has been judged to be advisable to extend the Regulations in force for the settlement and collections of the public revenue in the Province of Bengal, with certain modifications and exceptions, to the zila of Cuttack. ^[2]

The following rules have been enacted, and are to be in force from the period of the promulgation of this Regulation.

2 to 11. (*Confirmation, with modifications, of Proclamation as to settlement of land-revenue in the Moghalbandi territory of the zila of Cuttack; registration of landed property.*) Rep. by the Amending Act, 1903 (1 of 1903).

12 to 16. (*Extension of the Stamp Regulations to Cuttack; coinage in which settlement is to be made and revenue paid; bonds dischargeable in sicca rupees; engagements for coins other than siccas or gold mohurs not to be enforced.*) Rep. by the Repealing Act, 1874 (16 of 1874).

[1] **SHORT TITLE**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch III—see post, p 686

LOCAL EXTENT—This Regulation was passed for the District of Cuttack, see the title and s 1

EXTENSION OF APPLICATION—The rules prescribed in Ben Reg 12 of 1805 for determining the validity of grants for holding lands exempt from the payment of the public revenue have been declared applicable to grants for holding lands under *mukarrari* or other tenures limiting the demand of Government—see the Bengal Land revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), s 4, post, p 189

Such parts of Ben Reg 12 of 1805 as relate to *lakharaj* lands have been modified by the Bengal Revenue-free Lands Regulation, 1825 (Ben Reg 14 of 1825), post, p 307

[2] This included all the three districts of Cuttack, Balasore and Puri which were split up in the three regulation Districts in 1829, see the Bengal District Gazetteer, Cuttack, p 173

[3] Portion of section 1 which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

(Secs. 17-18.)

Modifications
of Regula-
tion 19,
1793.

17. The following rules, containing modifications of the provisions contained in Regulation 19, 1793,^[1] respecting lands exempt from the payment of revenue under grants not being *badshahi* or royal, shall be in force in the *zila* of Cuttack.

Validity of
grant of
alienated
lands made
before 14th
October,
1791.

18. *First*.—All grants for holding land exempt from the payment of revenue, made previously to the 14th day of October, 1791, corresponding with [*the 30th Assin, 1198, Bengal era*]; the 3rd *Kartik, 1199, Fasli*; [*the 30th Assin, 1199, Wilayati*]; the 3rd *Kartik, 1848, Saĩmbat*; and the 15th *Safr, 1207, Hijri*, by whatever authority, and whether by a writing, or without a writing, shall be deemed valid, provided that the grantee actually and *bonâ fide* obtained possession of the land so granted, and held it exempt from the payment of revenue, previously to the date above-mentioned, and that the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of the Government.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue previously to the date above specified, or that he did obtain possession of it prior to that date but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Validity of
grants made
after 14th
October,
1791, and
confirmed
or admitted
before 14th
October,
1803.

Second.—All grants for holding land exempt from the payment of revenue, which may have been made subsequently to the 14th day of October, 1791, and prior to the 14th day of October, 1803, by whatever authority, and which may have been confirmed or expressly admitted antecedently to the 14th day of October, 1803, by the authority of the existing Government, shall be deemed valid, provided the grantee actually and *bonâ fide* obtain possession of the land so granted, and held the same exempt from the payment of revenue, previously to the 14th day of October, 1803, and the land shall not have been afterwards rendered subject to the payment of revenue by the officers or the orders of the late Government.

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the 14th day of October, 1803, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of the late Government, the grant shall not be deemed valid.

Third.—In the event of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made

[1] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 47.

Reference of
doubtful
claims to
Governor
General.

(Sec. 18.)

previously to the 14th day of October, 1791, or under a grant made subsequent to that date, but prior to the 14th day of October, 1803, and confirmed or admitted by the authority of the existing Government, and of its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previously to the date specified, but that it was afterwards subjected to the payment of revenue by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the land to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the [1][Local Government,] to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue, and, upon receiving the determination of the [1][Local Government,] the Court is to decide accordingly.

In like manner the [1][Local Government] reserves to [2][itself] the power of determining, in cases of doubt, whether any officer of the *Raja* of Birar who may have made, confirmed or admitted grants of land exempt from the payment of revenue in the name or on the part of the *Raja* was competent to exercise such authority

The Courts of Judicature shall accordingly suspend their judgment in cases of the above nature, and report the circumstances for the decision of the [1][Local Government]

Fourth —But no part of the three preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land now paying revenue to Government, exempt from the payment of revenue, under any grant made previously to the 14th day of October, 1803, the writing for which may expressly specify it to have been given for the life of the grantee only, Rules respecting grants for life only.

or supposing no such specification to have been made in writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usage of the country

Fifth —Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue, under whatever grant, to succeed to and hold such land exempt from the payment of revenue upon the Heirs of present possessors.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1803 (1 of 1803), Sch II, *post*, p 702

[2] The word "himself," in the original text, is to be read as if the word "itself" were substituted therefor—see the Amending Act, 1803 (1 of 1803), Sch II, *post*, p 702.

judicial suit respecting it be depending, shall be of opinion that immediate assessment of such land would be productive of distress, he shall report the same, with the circumstances of the case, for the consideration of the [1] [Local Government]

Eighth—The Courts of Justice shall not take cognizance of any claim to hold exempt from the payment of revenue, under the present Regulation, land which may have been subjected to the payment of certain claims for the period of twelve years prior to the 14th day of October, 1803, nor of any claim to hold land exempt from the payment of revenue, which may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, unless the claimant can show good and sufficient cause for not having preferred his claim to a competent jurisdiction within that period

19. All grants for holding land exempt from the payment of revenue, Grants of land exempt from revenue, 1803, corresponding with [the 29th Assin, 1210, Bengal era,] the 14th Karti, 1211, Kash, [the 20th Assin, 1211, Wriyagati,] the 14th Karti, 1860, Sambat, 1803, and and the 27th Jamadus Sami 1218, Hiri, by any other authority than that of the British Government, and which may not have been confirmed by the Governor General in Council or by an officer empowered to confirm them are declared invalid

20. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the [1] [Local Government], to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the [1] [Local Government], shall decide accordingly

21. The following rule shall be in force in the Province of Cuttack Assessing land declared subject to the payment of revenue to Government for assessing land declared subject to the payment of revenue to Government under the three foregoing sections of this Regulation —

22. *First*—The revenue assessable on all lands which shall be adjudged or become liable to the payment of revenue, under sections 18, 19 and 20 of the present Regulation, is declared to belong to Government

Second—The revenue, payable to Government, shall be regulated by the rules prescribed by this Regulation for concluding the settlement of lands paying revenue to Government, and by any subsequent rules

[1] The words "Governor General in Council, in the original text, are to be read as if the words Local Government were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, post, p 792

(Sec 26)

quently to include grants of the following descriptions —

First, royal grants properly so called, secondly, grants made by the *Suba* of Orissa, and thirdly, grants made by the *Rajas* of Birar

Second — *Altamgha*, *jagir*, *aima*, *madadmash* or other *badshahi* grants *Badshahi grants made before 14th October, 1803 declared valid* for holding land exempt from the payment of revenue, made previous to the 14th October, 1803, shall be deemed valid provided the grantee actually and *bona fide* obtained possession of the land so granted previous to that date, and the grant shall not have been subsequently resumed by the officers or the orders of Government

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 14th October, 1803, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid

Third — In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue under a *badshahi* grant made previous to the 14th October, 1803, and on its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer under the powers vested in him to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the [1] [Local Government], to whom a power is reserved of determining whether such officer was or was not competent to resume the grant, and, upon receiving the determination of the [1] [Local Government] the Court is to act accordingly

Proceduro in case of doubt as to authority of officers resuming grants

Fourth — But no part of the preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land paying revenue to Government exempt from the payment of revenue under a *jagir* or other grant made previous to the 14th October, 1803, where the grant may expressly specify it to have been given for the life of the grantee only, or supposing no such specification to have been made in the grant, or the grant not to be forth-

Rules respecting grants for life only

[1] The words ' Governor General in Council ' in the original if the words ' Local Government ' were substituted thereof 1903 (1 of 1903) Sch II, *post*, p 702

(Secs. 27-29.)

coming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

Fifth.—Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue, under a *jagir* or other *badshahi* life-grant made previous to the 14th October, 1803, to succeed to and hold such land, exempt from the payment of revenue upon the demise of the present possessor, where the grant may expressly specify it to have been given for the life of the grantee only: or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Present
possession
not to trans-
fer or
mortgage
grants.

Sixth.—The present possessors of lands now exempt from the payment of revenue, under such *jagir* or other life-grants made previous to the 14th October, 1803, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives; and all such transfers and mortgages which have been or may be made are declared illegal and void.

Grants made
since 14th
October,
1803, and
not con-
firmed,
declared
invalid.

27. All *badshahi* grants for holding land exempt from the payment of revenue, which may have been made since the 14th October, 1803, by any other authority than that of the British Government, and which may not have been confirmed by Government, or by an officer empowered to confirm them, are declared invalid.

Procedure in
case of doubt
of authority
of officer
confirming
grant.

28. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the^[1] [Local Government,] to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant or otherwise; and the Court, upon receiving the determination of the^[1] [Local Government,] shall decide accordingly.

Periods
fixed for
registering
grants and
preparing
periodical
registers.

29. The period of one year, reckoning from the expiration of the *Wilayati* year 1212,^[2] shall be allowed to the proprietors to register their grants. On the expiration of that period of time the Collectors^[3] shall

^[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 702.

^[2] i.e., the 13th September, 1805.

^[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

(Secs 30 32)

prepare the first periodical register of lands held exempt from the payment of revenue under *badshahi* tenures, and the second, third and each successive register at the expiration of every five years

30. * * * * * *^[1]

Pensions.

In cases in which persons may have obtained pensions^[2] from the Government of Birar, under grants made previous to the 14th day of October, 1803, such pensions shall be continued to the present incumbents, and will either descend to their heirs and successors, or will revert to Government on the decease of the present incumbents, as shall appear to the ^[3][Local Government,] on a consideration of the tenor of the grant and all the circumstances of the case, to be proper * * *^[4]:

Provided * *^[5] that in cases in which persons shall have been in the actual receipt of pensions during a period of three or more years antecedent to the 14th day of October, 1803, under whatever authority, such pensions shall be continued to the present incumbents during their respective lives, but shall revert to Government on the decease of the present incumbents, unless any particular reasons shall appear to the ^[3][Local Government] to exist for continuing the said pensions to their heirs and successors

Provided also that nothing herein contained shall be construed to authorize the resumption of the established donation for the support of the temple of *Jagannath*, the charitable donation to the officers of certain Hindu temples, called *Anuchatri*, and the allowance granted for the support of the Hindu temple at Cuttack, called *Sitaram Thakur Bari*

31. The settlement of the land revenue of the *zila* of Cuttack having been ordered to be made with the exclusion of all *sair* duties, all duties of that description are hereby abolished in the said *zila*, with the exception of the tax on the sale and consumption of spirituous liquors and intoxicating drugs * * *^[6]

Collection of
sair, etc,
abolished. }

32. (*Extension of Reg 36 of 1793 to Cuttack*) Rep by Act 16 of 1864

^[1] Portion of s 30 which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted

^[2] As to pensions, see now the Pensions Act, 1871 (23 of 1871), in General Acts, 1868-78, Ed 1909, p 205

^[3] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, post, p 702

^[4] The words and figures "under section 4, Regulation 24 1793," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted

^[5] The word "likewise," which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted

^[6] The words "and the duties levied from pilgrims at *Jagannath*" are omitted, as having been repealed by Act 10 of 1840 The rest of the section was repealed by the Amending Act, 1903 (1 of 1903), and is also omitted

(Secs. 33-36.)

Sanads
granted to
certain
zamindars
confirmed.

33. The Commissioners having granted *sanads* to certain *zamindars*, entitling them to hold their estates at a fixed *jama* in perpetuity, those *sanads* are hereby confirmed. The following is a list of the names of the *zamindars* to whom this provision is to be considered applicable:—

Zamindar of Kila Darpan,
Zamindar of Kila Sukinda.
Zamindar of Kila Madhupur.

Also *sanad*
granted to
Fateh
Muhammad,
jagirdar of
Malud.

34. The Commissioners having likewise granted a *sanad* to Fateh Muhammad, *jagirdar* of *Malud*, entitling him and his heirs for ever, in consideration of certain services performed towards the British Government, to hold his lands exempt from assessment, such *sanad* is hereby confirmed.

Also
settlement
concluded
with certain
hill and
jungle
zamindars.

35. *First*.—The late Board of Commissioners having concluded a settlement of the land-revenue with certain *zamindars*, whose estates are situated chiefly in the hills and jungles, for the payment of a fixed annual quit-rent in perpetuity, those engagements are hereby confirmed; and no alteration shall, at any time, be made in the amount of the revenue payable under the engagements in question to Government.

Second.—The following is a list of the *mahals* to which the provision in the preceding clause is applicable:—

Kila Aull,
Kila Kujan,
Kila Puttra,
Kila Hamishpore,
Kila Marichpur,
Kila Visunpur.

Like
settlement
to be
concluded
with
zamindars of
Khurda and
Kanaka.
Regulations
regarding
settlement or
collection of
revenue,
etc., in
Bengal
extended to
Cuttack.

Third.—The *zamindaris* of *Korda*^[1] and *Kanka*^[2] being *mahals* of the description of those specified in the preceding clause, a settlement shall be concluded, as soon as circumstances may admit, for the revenue of those *mahals* on the principle on which a settlement has been concluded with the *zamindars* of the *mahals* specified in the preceding clause.

36. All Regulations relating directly or indirectly to the settlement and collection of the public revenue, or to the conduct of the officers employed in the performance of that duty, whether European or Native, in the Province of Bengal, which are not superseded by the foregoing rules, are hereby extended to, and declared to be in force in, the *zila* of Cuttack:

[1] Query *Khurda*.

[2] Query *Kanaka*.

(Sec. 37.)

Provided, however, that nothing herein contained shall be construed *Exceptions.* to authorize the division of the lands comprised in any estates in the *zila* of Cuttack,[¹] in which the succession to the entire estate devolves according to established usage to a single heir in cases of this nature the Courts of Justice are to be guided by the provisions contained in Regulation 10, 1800:[¹]

* * * * *

37. (*Similar exceptions applicable to the territory of Mayurbhanj.*)
Rep by the Tributary Mahals of Orissa Act, 1893 (11 of 1893).

[¹] The Bengal Inheritance Regulation, 1800. It is printed *ante*, p. 89

[²] Portion repealed by the Tributary Mahals of Orissa Act, 1893 (11 of 1893), is omitted.

BENGAL REGULATION 13 OF 1805.

(THE CUTTACK POLICE REGULATION, 1805.)^[1]

(5th September, 1805.)

A Regulation for the maintenance of the peace and for the support and administration of the Police in the *zila* of Cuttack, * * * * *^[2]

1. Whereas it is essential to the security of the persons and property of the inhabitants of the districts and lands included in the Province of Cuttack and its dependencies that a regular and efficient system of police should be maintained in the said Province:

* * * * *

the following rules have been enacted, to be immediately in force in the Province of Cuttack including the *pargana*[s] of [Patáspur,] Kamárdáchor [and Bhográi].

2. [The districts and lands comprised in the Province of Cuttack, with the exception of the *parganas* of Patáspur, Kamárdáchor and Bhográi, shall be * * *^[4] denominated the *zila* of Cuttack.]

3. The abovementioned *pargana*[s] of [Patáspur,] Kamárdáchor [and Bhográi,] shall be included, as at present, in the *zila* of Midnapore; subject, however, to all the laws and Regulations which have been or may be enacted for the internal government of the *zila* of Cuttack:

Provided, nevertheless, that it shall at any time be lawful for [the Local Government, by notification in the Calcutta Gazette,] to make any alteration with respect to the boundaries of the said *zila* of Midnapore and] Cuttack which may appear to be expedient.

4. First—The following rules shall be observed in the appointment of *darogas* for the maintenance of the police in the *zila* of Cuttack, and

[1] SHORT TITLE—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see post, p 686

LOCAL EXTENT—This Regulation extends to the District of Cuttack and the Pargana of

omitted
for amending certain provisions contained in Regulation the Amending Act, 1903 (1 of 1903), are omitted repealed by the Amending Act, 1903 (1 of 1903), is

[4] The words and figures "formed into one *zila*," instead of two *zilas*, as prescribed in Regulation 4, 1804, and shall be," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[5] The words "the Governor General in Council, by an Order in Council," in the original text are to be read as if the words "the Local Government, by notification in the Calcutta Gazette," were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, post, p 702.

(Secs. 5-8.)

in the abovementioned Pargana[s] of [Patáspur,] Kamardáchor [and Bhográi:]

Certain zamindars to continue to act as police-officers in their respective estates.

Second.—In cases in which the *zamindars*, *talukdars* and other landholders have not been formally divested of the charge of the police within the limits of their respective estates, for misconduct or any other reason, either by the late Marátha Government or by the Board of Commissioners for the settlement of the affairs of Cuttack, such *zamindars*, *talukdars* and other landholders shall continue, under the responsibility stated in section 6, Regulation 4, 1804,^[1] in charge of the police, according to established usage, within their respective estates; that is the principal *zamindars*, *talukdars* and other landholders, being proprietors of large estates, shall be constituted *darogas* of police within the limits of their respective possessions; and the inferior *zamindars*, *talukdars* and other landholders, being proprietors of petty estates, shall be considered to be subordinate officers of police, subject to the above-mentioned responsibility, under the immediate authority of *darogas*, who shall be selected and appointed for the maintenance of the police in estates or *mahals* of the latter description.

Third.—(In what cases *khandaits* to be nominated to the charge under control of *darogas*.) *Rep. by the Amending Act, 1903 (1 of 1903).*

Salaries of *darogas*.

Fourth.—The *darogas* who may be appointed under clauses second * * *^[2] of this section shall receive such salaries as the ^[3][Local Government] may think proper to fix for their support, on a consideration of the labour and responsibility of the offices held by them.

5 to 7. (Lands assigned by the late Government for the maintenance of the *sardars* and other *paiks* to be continued to them; Register of the *sardar* and other *paiks*; *Darogas* to fix limits of local authority of the *Khandáits*, etc.) *Rep. by the Amending Act, 1903 (1 of 1903).*

Zamindars, etc., not exempted from afford-

8. Nothing contained in this Regulation shall be construed to exempt the *zamindars*, *talukdars*, farmers and other holders of land, al-

[¹] Ben. Reg. 4 of 1804 was repealed by the Repealing Act, 1868 (8 of 1868); but this reference was saved by section 1 of that Act. The portion of section 6 of Reg. 4 of 1804 which relates to the responsibilities of landholders in the matter of police runs as follows:

"Provided, however, that this Regulation shall not be construed to exonerate the *zamindars*, farmers or other holders of lands in the *zila* of Cuttack from the duties and responsibility imposed on them, by the terms of their respective tenures or engagements and the usages of the country, for the prevention of robberies and other disorders and for the maintenance of peace and good order within their respective limits. Such *zamindars*, farmers and other holders of land shall continue to perform such duties, subject to the same responsibility as heretofore, notwithstanding anything that may be said to the contrary in any Regulation enacted previously to the date of this Regulation."

[²] The words "and third," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[³] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 702.

(Secs. 9-13.)

though they be not formally constituted officers of police, from the duty of affording every assistance in the prevention of breaches of the peace and in the apprehension of public offenders, who are immediately to be delivered into the custody of the nearest officers of police.

ing assist-
ance to
prevent
breaches of
peace, etc.

9. Any *zamindar*, *talukdar* or holder of land exempt from revenue who may be suspected of conniving at any robbery or other public offence will be liable to be prosecuted before the Criminal Courts of the country, and punished on conviction under the general laws and Regulations of the country.

Liability of
zamindars,
etc., sus-
pected of
conniving
at robbery,
etc.

10, 11. (*Register of lands assigned for sardar and other paiks; above rules not applicable to dusháds or village-watchmen, entertained by land-holders.*) Rep. by the Amending Act, 1903 (1 of 1903).

12. (*Authority of Board of Commissioners in Cuttack discontinued.*) Rep. by the Repealing Act, 1874 (16 of 1874).

13. All laws and Regulations for the maintenance of the police, and for the administration of justice in criminal cases, in the Province of Bengal, which have been or shall be enacted, and which shall not be inconsistent with or repugnant to the provisions contained in this Regulation, * * * [1] shall have full force and effect in the *zila* of Cuttack and in the *pargana*[s] of [*Patáspur*,] *Kamardáchor* [*and Bhográt* included in the *zila* of *Midnapore*]

Extension of
Regulations
for police
and adminis-
tration of
criminal
justice to
Cuttack.

* * * * *

[1] The words and figures "and likewise such of the rules contained in Regulation 4, 1804, as are not either specifically or virtually rescinded by the present Regulation," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted

[2] The proviso to s. 13, which was repealed by the Tributary Mahals of Orissa Act, 1893 (11 of 1893), is omitted.

BENGAL REGULATION 11 or 1806

(THE BENGAL TROOPS TRANSPORT AND TRAVELLERS' ASSISTANCE
REGULATION, 1806) [1]

(3rd July, 1806)

A Regulation for facilitating the progress of detachments of troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories * * * [2]

1 Whereas it is expedient to enact into a Regulation, for general in- Preamble
formation and observance, the rules which have been established by Government at different times (with such amendments as have been deemed necessary) for facilitating the progress of military detachments through the Company's Provinces for ascertaining and defraying any necessary expense incurred for that purpose and for providing compensation when any material damage may be sustained in the cultivation of the country from the march or encampment of troops

and whereas it has also been judged proper to empower the local officers of police to afford such reasonable assistance as may be required by travellers (whether European or Native) proceeding through their respective jurisdiction in procuring the means of prosecuting their journeys ,

[1] **SHORT TITLE**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch III—see post p 610

LOCAL EXTENT—This Regulation was passed for the whole of the former Province of
st p 120

al Extent Act 1874 (15 of 1874) s 6 (printed to be in force throughout the former Province Districts

nder the Scheduled Districts Act 1874 (14 of scheduled Districts namely —

Palamau and Manbhum and Pargana Dhal
ral at Estate in the district of Singhbhum in

the Chota Nagpur Division, see Vol IV, Part III

It is in force in —

the Angul District see Vol IV, Part IV

the Sonthal Parganas see Vol IV Part IV

The Deputy Commissioner of Angul is also empowered by the Angul Laws Regulation, 1913 (3 of 1913), s 69 (1) (6) (post p 881) to require proprietors farmers rent-Collectors or occupiers of land to supply provisions and labour, at market rates for the use of troops and Officers of the Government marching in or through the District of Angul on the public service

REPEAL AS TO Coolies—Such part of this Regulation as authorizes the Collectors and their native officers or the Magistrates and their police-officers to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of Civil and Military officers or other individuals travelling through the country, either
the provisions were repealed by Ben Reg 3 of 1830

er provisions as to the transport of troops, see the 1825 (6 of 1825) post p 283

which were repealed by the Repealing and Amending

(Secs. 2-3.)

Notice to be given to Collectors and Magistrates, by officers commanding detachments.

Procedure of Collector on notice.

*[1]

the following rules have been enacted, to be in force throughout the whole of the Provinces subject to the immediate government of the Presidency of Fort William^[2] (according as such rules may be applicable to the said Provinces respectively) from the date of their promulgation.

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's territories the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Collectors^[3] of the revenue of the *zilas* through which the troops are to pass of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted.

The commanding officer will likewise notify to the Collectors^[3] the probable period of the arrival of the troops at the rivers or *nalas* intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them. * * *^[4].

3. *First*.—On receiving the notification mentioned in the foregoing section the Collector^[3] shall immediately issue the necessary orders^[5] to the landholders, farmers, *tahsildars* or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or *nalas* as may intersect their march, without any impediment or delay.

The Collector^[3] shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, *coolies*,^[6] boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route.

[1] Portions of the title and s. 1 which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[4] The words "The Commanding Officer will at the same time communicate to the Magistrates of the *zilas* through which the troops are to pass the probable time of the arrival of the troops within their respective jurisdictions," which were repealed by the Repealing and Amending Act, 1897 (5 of 1897), are omitted.

[5] As to fines imposable on landholders and other persons for disobedience to orders issued under this section, see the Bengal Troops Transport Regulation, 1825 (6 of 1825), *post*, p. 283.

[6] This Regulation has been repealed as to *coolies*—see foot-note on p. 119, *ante*.

(Sec 4)

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest police officer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks required

Police to assist in providing bearers, boat men, carts and bullocks Rates for supplies furnished to troops.

Second—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current *bazar* prices of the place at which they may be provided,

and all officers commanding detachments of troops or single corps marching through any part of the Company's territories are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require

Commanding officers to inquire into, and redress, complaints against persons under their command.

4 First—Whenever a detachment of troops or single corps shall be provided with boats, temporary bridges or other accommodations by any landholder farmer, *tahsildar* or other person, conformably to the orders of the Collector^[1] of the *zila*, for the purpose of crossing the troops and their baggage over rivers or *nalas*, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat and how long employed on the public service

Certificate to be granted by commanding officer when troops are provided with boats, etc

In instances in which temporary bridges may be constructed for the above purpose the certificate to be granted by the commanding officer is to specify generally the dimensions of the bridges and the materials of which they may be composed

Second—The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector^[1] of the *zila* by the person receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified

Certificate to be sent to Collector with account.

The Collector^[1] shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges

Account to be sent by Collector to commanding officer Endorsement by commanding officer

Third—When the account above mentioned shall be returned to the Collector^[1] he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the *zila*, and shall transmit the account, with the voucher

Account to be returned to Collector with voucher

[1] As to the exercise of functions of Collectors by other officers see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822) s 35 post, p 267

(Sec. 5.)

report to
Governor
General.

and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the [1] [Local Government].

After the account shall have undergone the examination and report prescribed for all military contingent charges, the [1] [Local Government] will pass such final order as may appear proper.

Collector may
pay charge
if reason-
able.

In the meantime the Collector[2] is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto ; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Procedure
for land-
holders, etc.,
sustaining
injury from
march or
encampment.

5. *First*.—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained ; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Certificate
by command-
ing officer.

Certificate
with state-
ment of
claim to be
presented to
Collector
within ten
days.

Second.—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector[2] of the *zila* (either in person or by his *vakil*) within ten days from the date of the certificate ; but no claim of this description shall be received by the Collector[2] after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

The Collector,[2] on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded ; and shall report his proceedings to the Board of Revenue,[3] accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

[1] These words in square brackets in s. 4 (3), were substituted for the words " Governor General in Council " by the Repealing and Amending Act, 1897 (5 of 1897), Sch. II.—see *post*, p. 605.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

(Secs. 6-8.)

It is, however, declared that no claim will be received unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Collector^[1] shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

6. Immediately on receiving the notification mentioned in section 2, the Magistrates shall transmit orders to the several police-darogas or other local officers of the police through whose jurisdiction the troops are to pass to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed on the part of the Collector^[1] in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

Procedure
by Magis-
trates on
receiving
notice
mentioned
in section 2.

7. Officers commanding detachments of troops or single corps on their march through any part of the Company's territories are already required, by the general orders issued under date the 1st of February, 1788, to report to the Commander-in-Chief in what manner the troops have been supplied in passing through the districts lying in their route.

Report to
Commander-
in Chief by
officers
commanding
troops on
march.

In like manner, the Collectors^[1] are directed to report to the Board of Revenue^[2], * * *^[3], any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall

Police
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necessity, to
assist
travellers in
prosecuting
their route.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267

[2] As to the exercise of functions of the Board of Revenue by other authorities, see 1913 (B and

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tepealing and

(Sec. 5.)

report to
Governor
General.

and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the [1] [Local Government].

After the account shall have undergone the examination and report prescribed for all military contingent charges, the [1] [Local Government] will pass such final order as may appear proper.

Collector may
pay charge
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In the meantime the Collector[2] is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto ; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Procedure
for land-
holders, etc.,
sustaining
injury from
march or
encampment.

5. *First.*—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained ; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Certificate
by command-
ing officer.

Certificate
with state-
ment of
claim to be
presented to
Collector
within ten
days.

Second.—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector[2] of the *zila* (either in person or by his *vakil*) within ten days from the date of the certificate ; but no claim of this description shall be received by the Collector[2] after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

The Collector,[2] on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded ; and shall report his proceedings to the Board of Revenue,[3] accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

[1] These words in square brackets in s. 4 (3), were substituted for the words " Governor General in Council " by the Repealing and Amending Act, 1897 (5 of 1897), Sch. II.—see *post*, p. 605.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

(Secs 6-8.)

It is, however, declared that no claim will be received unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed, excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate

In such cases, if the Collector^[1] shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation

6. Immediately on receiving the notification mentioned in section 2, the Magistrates shall transmit orders to the several police *darogas* or other local officers of the police through whose jurisdiction the troops are to pass to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions, and to co operate, as far as necessary, with the person deputed on the part of the Collector^[1] in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

Procedure
by Magistrates
on receiving
notice
mentioned
in section 2.

7 Officers commanding detachments of troops or single corps on their march through any part of the Company's territories are already required, by the general orders issued under date the 1st of February, 1788, to report to the Commander in Chief in what manner the troops have been supplied in passing through the districts lying in their route

Report to
Commander-
in Chief by
officers
commanding
troops on
march.

In like manner, the Collectors^[1] are directed to report to the Board of Revenue^[2], * * *^[3], any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall

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Procedure
for land-
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5. *First*.—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained ; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Certificate
by command-
ing officer.

Certificate
with state-
ment of
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presented to
Collector
within ten
days.

Second.—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector[2] of the *zila* (either in person or by his *vakil*) within ten days from the date of the certificate ; but no claim of this description shall be received by the Collector[2] after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

The Collector,[2] on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded ; and shall report his proceedings to the Board of Revenue,[3] accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

[1] These words in square brackets in s. 4 (3), were substituted for the words " Governor General in Council " by the Repealing and Amending Act, 1897 (5 of 1897), Sch. II.—see *post*, p. 605.

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(Secs 6 8)

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In such cases, if the Collector^[1] shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation

6 Immediately on receiving the notification mentioned in section 2, the Magistrates shall transmit orders to the several police *darogas* or other local officers of the police through whose jurisdiction the troops are to pass to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions, and to co operate, as far as necessary, with the person deputed on the part of the Collector^[1] in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country

Procedure by Magistrates on receiving notice mentioned in section 2.

7 Officers commanding detachments of troops or single corps on their march through any part of the Company's territories are already required, by the general orders issued under date the 1st of February, 1788, to report to the Commander in Chief in what manner the troops have been supplied in passing through the districts lying in their route

Report to Commander-in-Chief by officers commanding troops on march.

In like manner, the Collectors^[1] are directed to report to the Board of Revenue^[2], * * *^[3] any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government

8 Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

[1] As to the exercise of functions of Collectors by other officers see the Bengal Land revenue Settlement Regulation 1822 (7 of 1822) s 35 *post* p 267

[2] As to the exercise of functions of the Board of Revenue by other authorities, see 1913 (B and

Amending Act, 1897 (5 of 1897), are omitted the informal repealing and

(Sec. 5.)

report to
Governor
General.

and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the [1] [Local Government].

After the account shall have undergone the examination and report prescribed for all military contingent charges, the [1] [Local Government] will pass such final order as may appear proper.

Collector may
pay charge
if reason-
able.

In the meantime the Collector[2] is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Procedure
for land-
holders, etc.,
sustaining
injury from
march or
encampment.

5. *First*.—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Certificate
by command-
ing officer.

Certificate
with state-
ment of
claim to be
presented to
Collector
within ten
days.

Second.—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector[2] of the *zila* (either in person or by his *vakil*) within ten days from the date of the certificate; but no claim of this description shall be received by the Collector[2] after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

The Collector,[2] on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue,[3] accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

[1] These words in square brackets in s. 4 (3), were substituted for the words "Governor General in Council" by the Repealing and Amending Act, 1897 (5 of 1897), Sch. II.—see *post*, p. 605.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

(Secs 68)

It is, however, declared that no claim will be received unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed, excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate

In such cases, if the Collector^[1] shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation

6 Immediately on receiving the notification mentioned in section 2, the Magistrates shall transmit orders to the several police *darogas* or other local officers of the police through whose jurisdiction the troops are to pass to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions, and to co operate, as far as necessary, with the person deputed on the part of the Collector^[1] in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country

Procedure by Magistrates on receiving notice mentioned in section 2.

7 Officers commanding detachments of troops or single corps on their march through any part of the Company's territories are already required, by the general orders issued under date the 1st of February, 1788, to report to the Commander in Chief in what manner the troops have been supplied in passing through the districts lying in their route

Report to Commander in Chief by officers commanding troops on march.

In like manner, the Collectors^[1] are directed to report to the Board of Revenue^[2], * * *^[3] any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government

8 Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs and shall

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

[1] As to the exercise of functions of Collectors by other officers see the Bengal Land revenue Settlement Regulation 1822 (7 of 1822) s 35 post p 267

[2] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot note to the Bihar and Orissa Board of Revenue Act 1913 (B and O Act 1 of 1913) s 3 in Vol III of this Code.

[3] The words and the Magistrates to report to the *Nizamut Adalat* for the information of the Governor General in Council which were repealed by the Repealing and Amending Act, 1897 (5 of 1897) are omitted

(Secs. 9-10.)

be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police to aid him in providing any requisite bearers, *coolies*,^[1] boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

Assistance
how afforded.

On receiving an application of the above nature the police-officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons: provided that a sufficient number of persons who have been accustomed to act as bearers, *coolies*^[1] or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction.

Persons and
carts and
bullocks not
to be em-
ployed in
furnishing
assistance.

But all police-officers are strictly forbidden, under pain of dismissal from office * * *^[2], on applications of the above nature, to compel any persons not accustomed to act as bearers, *coolies*^[1] or boatmen, to serve, on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture.

Person em-
ployed to be
at liberty to
return from
first police-
station.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police-station in the next *zila* through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons.

Conditions
of assistance
to travellers.

The police-officers are further enjoined to be careful that a proper compensation for the bearers, *coolies*, boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto.

For this purpose the police-officers are authorized to adjust the rate of hire to be paid for the bearers, *coolies*,^[1] boatmen, carts and bullocks required and the price of any articles provided, as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

9. (*Prohibition against persons not in the military service wearing military dress.*) Rep. by the Repealing Act, 1874 (16 of 1874).

10. (*Trial of military guards by martial law in certain cases.*) Rep. by the Repealing Act, 1876 (12 of 1876).

[1] This Regulation has been repealed as to *coolies*—see foot-note on p. 119, ante.

[2] The words and figures “under the rules prescribed by Regulation 5, 1804,” which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

(Secs. 11-20.)

11, 12. (*Rules for promulgating Regulations.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

13 to 19. (*Rules for supplying military guards or detachments; permanent guards; temporary guards; monthly report of guards, etc., supplied; application of rules; non-applicability in Presidency stations.*) *Rep. by the Repealing Act, 1876 (12 of 1876).*

20. (*Repeal of cl. (1), s. 22, of Reg. 1 of 1804.*) *Rep. by Ben. Reg. 2 of 1811.*

(Secs. 9-10.)

be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police to aid him in providing any requisite bearers, *coolies*,^[1] boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

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On receiving an application of the above nature the police-officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons: provided that a sufficient number of persons who have been accustomed to act as bearers, *coolies*^[1] or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction.

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carts and
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ployed in
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Person em-
ployed to be
at liberty to
return from
first police-
station.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police-station in the next *zila* through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons.

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of assistance
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The police-officers are further enjoined to be careful that a proper compensation for the bearers, *coolies*, boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto.

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Should any traveller refuse to comply with the adjustment or demand so made by a police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

9. (*Prohibition against persons not in the military service wearing military dress.*) Rep. by the Repealing Act, 1874 (16 of 1874).

10. (*Trial of military guards by martial law in certain cases.*) Rep. by the Repealing Act, 1876 (12 of 1876).

[1] This Regulation has been repealed as to *coolies*—see foot-note on p. 119, *ante*.

[2] The words and figures "under the rules prescribed by Regulation 5, 1804," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

(Secs. 11-20.)

11, 12. (*Rules for promulgating Regulations.*) Rep. by the Repealing Act, 1874 (16 of 1874).

13 to 19. (*Rules for supplying military guards or detachments; permanent guards; temporary guards; monthly report of guards, etc., supplied; application of rules; non-applicability in Presidency stations.*) Rep. by the Repealing Act, 1876 (12 of 1876).

20. (*Repeal of cl. (1), s. 22, of Reg. 1 of 1804.*) Rep. by Ben. Reg. 2 of 1811.

BENGAL REGULATION 19 OF 1810.

(THE BENGAL CHARITABLE ENDOWMENTS, PUBLIC BUILDINGS AND
ESCHEATS REGULATION, 1810.)^[1]

(14th December, 1810.)

A Regulation for the due appropriation of the rents and produce of lands granted for the support of * * *^[2] colleges and other purposes; for the maintenance and repair of * * *^[3] public buildings; and for the custody and disposal of *nazul* property or escheats.

1. Whereas considerable endowments have been granted in land by Preamble the preceding Governments of this country and by individuals for the support of * * *^[2] colleges and for other * * *^[4] beneficial purposes, and whereas there are grounds to suppose that the produce of such lands is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments, and whereas it is an important duty

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see *post*, p 687

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see s 1

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed in General Acts 1868 78, Ed 1909 p 453) to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874) s 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division, see Vol IV, Part III

The application of the Regulation in the deregulationised tracts in Bihar and Orissa is barred as follows, namely —

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p 864

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1874 (3 of 1874), s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, *post*, p 832

PARTIAL REPEALS.—Such parts of Ben Reg 19 of 1810 as require that the Board of Revenue should provide, with the sanction of the Government, for the due repair of public edifices of the description of bridges, *sardis* and *lattras*, were repealed by Ben Reg 17 of 1816, s 16

So much of Ben Reg 19 of 1810 as relates to endowments for the support of Mosques, Hindu temples or other religious purposes was repealed by the Religious Endowments Act, 1863 (20 of 1863), printed in General Acts, 1834 67, Ed 1909, p 406 See the saving in s 23 of that Act

[2] The words "Mosques Hindu temples," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

[3] The words "bridges *sardis*, *lattras* and other," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

[4] The words "pious and," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

(Secs. 2-4.)

of every Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover essential to provide for the maintenance and repair of * * *^[1] buildings which have been erected either at the expense of Government or of individuals for the use and convenience of the public, and also to establish proper rules for the custody and disposal of *nazul* property or escheats, the following rules have been enacted, to be in force, from the period of their promulgation, throughout the Provinces immediately dependent on the Presidency of Fort William.^[2]

Superintendence of lands granted for support of colleges, &c.

2. The general superintendence of all lands granted for the support of * * *^[3] colleges and for other * * *^[4] beneficial purposes, and of all public buildings, such as bridges, *saráis*, *kattras* and other edifices, is hereby vested in the Board of Revenue^[5] * * *^[6].

Appropriation of endowments.

3. It shall be the duty of the Board of Revenue^[5] * * *^[7] to take care that all endowments made for the maintenance of establishments of the above description be duly appropriated to the purpose for which they were destined by the Government or individual by whom such endowments were granted.

In like manner it shall be the duty of^[8] [the Board of Revenue]^[5] to provide, with the sanction of Government, for the due repair and maintenance of all public edifices which have been erected, either at the expense of the former or present Government or of individuals, and which either at present are or can conveniently be rendered conducive to the convenience of the community.^[9]

Disposal of ruined buildings.

4. In those cases, however, in which any of the buildings in question have fallen to decay, and cannot, from that or other causes, be conveniently repaired, or are not calculated if repaired to afford any material

^[1] The words, "bridges, *saráis*, *kattras* and other," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

^[3] The words "Mosques, Hindu temples," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[4] The words "pious and," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[5] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

^[6] The words "and Board of Commissioners in the several districts subject to the control of those Boards respectively," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[7] The words "and Board of Commissioners," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[8] These words in square brackets in s. 3 were substituted for the words "those Boards" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 703.

^[9] This paragraph was repealed, as to public edifices of the description of bridges, *saráis* and *kattras*, by Ben. Reg. 17 of 1816, s. 16.

(Secs. 5-9.)

accommodation to the public, the^[1] [Board]^[2] shall recommend that they be sold on the public account, or otherwise disposed of, as may appear most expedient.

5. Under the foregoing rules it will of course be incumbent on the Board of Revenue^[2] * * *^[3] to prevent any lands which have been granted for the support of establishments of the above description from being converted to the private use of individuals, or appropriated in any other mode contrary to the intent and will of the donor; and likewise to prevent all public edifices from being usurped by individuals and falling into the possession and exclusive use of private persons.

Lands or public edifices not to be appropriated by individuals for private uses.

6. Whenever the Board of Revenue^[2] * * *^[3] may be of opinion that any of the above-mentioned edifices require repair, they shall obtain the necessary estimates of the expense required for the execution of the work, and forward them to Government for its approval.

Estimates of necessary repairs to be submitted to Government.

7. The general superintendence of all *nazul* property or escheats is likewise hereby vested in the Board of Revenue^[2] * * *^[4], who will inform themselves fully through the channel hereafter mentioned of all property of that description, and report to Government whether it should in their opinion be sold on the public account, or in what other mode it should be disposed of.

Superintendence of *nazul* property.

8. To enable the Board of Revenue^[2] * * *^[5] the better to carry into effect the duties intrusted to them by this Regulation, local agents shall be appointed in each *zila* subject to the authority, control and orders of^[6] [the Board].^[2]

Appointment of local agents.

9. The Collector of the *zila* shall be *ex-officio* one of those agents, with whom the^[7] [Local Government] will unite such other public officers, whether in the civil, military or medical branch of the service, as may from time to time be judged expedient.

Collector to be *ex-officio* agent with others.

[1] This word "Board" in s 4 was substituted for the word "Boards" by the Amending Act, 1903, Sch. II—see *post*, p. 703

[2] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O. Act 1 of 1913), s 3, in Vol. III of this Code

[3] The words "and Board of Commissioners," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

[4] The words "and Board of Commissioners respectively," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

[5] The words "and Board of Commissioners," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

[6] These words "the Board" in s 8 were substituted for the words "those Boards respectively" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 703

[7] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 703.

(Sees. 10-13.)

Agents to ascertain and report particulars of endowments, etc.;

10. Under the provisions of the present Regulation it will of course be the duty of the agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those above described, and of all *nazul* property or escheats, and to report to the Board^[1] * * * ^[2] any instances in which they may have reason to believe that the lands or buildings are improperly appropriated; being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

also names, etc.; of present trustees or managers;

11. The said agents will further ascertain and report the names, together with other particulars, of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, whether under the designation of *matawali* or any other, and by whom and under what authority appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder, or under any general rule or maxim applicable to such institutions and foundations.

and all vacancies or casualties, with full information as to pretensions of claimants;

12. The local agents will also report to the^[3] [Board of Revenue]^[1] all vacancies and casualties which may occur, with full information of all circumstances, to enable the^[4] [Board]^[1] to judge of the pretensions of the person or persons claiming the trust; particularly whether the succession have been heretofore by inheritance in the line of descent, or whether the successor have been in former instances elected, and by whom, or whether he have been nominated by the founder or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

to recommend fit persons in cases where nomination rests in Government.

13. In those cases in which the nomination has usually rested with the present or former Government, or with a public officer, or of right appertains to Government, in consequence of no private person being competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the^[5] [Board

^[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

^[2] The words "to whose authority those grants are respectively subject," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[3] These words "Board of Revenue" in s. 12 were substituted for the words "superior Boards" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 703.

^[4] This word "Board" was substituted for the word "Boards" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 703.

^[5] These words "Board of Revenue" in s. 13 were substituted for the words "superior Board," by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 703.

(Secs 14-16)

of Revenue],[¹] a fit person or persons for the charge of trustee or manager and superintendent, duly attending to the qualifications of the person selected, and to any special provisions of the original endowment and foundation, and to the general rules or the known usages of the country applicable to such cases

14. On the receipt of the report and information required by the preceding clause, the Board of Revenue[¹] * * * [²] will either appoint the person or persons nominated for their approval, or will make such other provision for the trust, superintendence and management as may be right and fit with reference to the nature and conditions of the endowment having previously called for any requisite further information from the local agents

Board to
appoint
one or more
persons,
or make
other pro-
vision for
trust

15 Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the above mentioned authorities, with respect to the appropriation of any lands or buildings of the nature of those above described, from suing * * * [³] for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him

Saving of
private
rights

16 It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands granted for public purposes agreeably to the intent of the grantor, and not to resume any part of the produce of them for the benefit of Government

Object of
Regulation

In like manner it is fully intended that all buildings erected by the former or present Government or by individuals for the convenience of the public should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay and cannot from that or any other cause be conveniently repaired, or which, under existing circumstances, can no longer contribute to the accommodation of the community

[¹] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913) s 3 in Vol III of this Code

[²] The words "or Board of Commissioners," which were repealed by the Amending Act 1903 (1 of 1903) are omitted

[³] The words "in the mode and form prescribed by the Regulation where Government or public officers are parties or under the general provisions of the Regulations if the suit be brought against a competitor or other private person," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

BENGAL REGULATION 5 OF 1812.

(THE BENGAL LAND-REVENUE SALES REGULATION, 1812.)^[1]

(1st May, 1812)

A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.

1. (Preamble and local extent.) Rep by the Repealing Act, 1874 (16 of 1874)

[²]2. * * * [³] Proprietors of lands are declared competent to grant leases for any period which they may deem most convenient to themselves and tenants and most conducive to the improvement of their estates

Proprietors competent to grant leases for any term.

[²]3. * * * [³] The proprietors of land shall henceforward be considered competent to grant leases to their dependent *talukdars*, under-farmers and *rayats*, and to receive correspondent engagements for the payment of rent from each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient and most conducive to their respective interests:

Proprietors competent to grant leases and receive engagements in any convenient form

Provided, however, that nothing herein contained shall be construed to sanction or legalize the imposition of arbitrary or indefinite cesses, whether under the denomination of *abuab*, *mathat* or any other denomination.

Prohibition of arbitrary cesses

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see *post*, p 687

LOCAL EXTENT.—This Regulation has been declared, by the *Laws Local Extent Act*, 1874 (15 of 1874), s 6, printed in General Acts, 1868 78, Ed 1909, p 458, to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), see s 3, to be in force in the districts of Hazaribagh and Manbhum, and Pargana Dhalbhum, in the district of Singhbhum, in the Chota Nagpur Division, see Vol IV, Part III

The Regulation is in force in the Sonthal Parganas, see Vol IV, Part IV, but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p 852

[¹] S 2 is explained in the Bengal Leases and Land revenue Regulation, 1812 (18 of 1812), s 2, *post*, p 141

Leases made in conformity to ss 2 and 3 are to remain in full force notwithstanding the partition, sale, devolution, gift, etc., of an estate—see the Bengal Leases and Land revenue Regulation, 1812 (18 of 1812), s 3, *post*, p 142

Ss 2, 3, 4, 26 and 27 are repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s 2 (1) (*post*, p 462), in the whole of the former Province of Bengal "except the town of Calcutta, the Division of Orissa and the Scheduled Districts" They have subsequently been repealed for the Division of Orissa also, see the Orissa Tenancy Act, 1913 (B and O Act II of 1913), s 2, Sch I, Part I in Vol III of this Code

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts

[¹] Repealing clauses in ss 2 and 3, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

(Secs. 4-25.)

All stipulations or reservations of that nature shall be adjudged by the Courts of Judicature to be null and void: but the Courts shall notwithstanding maintain and give effect to the definite clauses of the engagements contracted between the parties, or, in other words, enforce payment of such sums as may have been specifically agreed upon between them.

No attacher of lands on part of Government or purchaser at public sales, entitled to annul existing leases within year.

[¹]4. * * * * [²] Neither any person deputed to attach lands on the part of Government, nor purchasers at the public sales, shall be deemed entitled to annul existing leases within the year in which the attachment or sale may have taken place, on the ground that such leases were evidently collusive, without a decision to that effect in a Court of Judicature * * * [³].

5 to 23. (*Rules as to rates at which purchasers of land may collect during year in which sale took place; rules to apply to sequestrators, etc., holding under authority of Boards of Revenue or Commissioners; modifications of existing rules for recovery of arrears.*) Rep. by the Bengal Rent Act, 1859 (10 of 1859).

Sales of entire estates not liable to be annulled on ground of some sharers not having obtained possession.

24. It is hereby declared that sales made of entire estates for the recovery of arrears of public assessment are not liable to be annulled by the Courts of Judicature on the ground that one or more of the sharers may not have obtained possession of his or their interests in the property.

The consideration of and decision on the expediency of selling the entire estate, or of disposing in the first instance of any particular part of it, is hereby declared to reside in the Board of Revenue [⁴]* * * [⁵] subject to the control exercised by the Government, in its executive capacity, in matters connected with the public revenue.

Nor on ground of proceeds having materially exceeded arrears due.

25. No means existing by which any certain or accurate computation can be formed *a priori* of the real value of any estate, or portion of estate, which may be exposed to sale for the recovery of arrears of public assessment, or of the adequacy of the price which may be offered for such estate, or portion of estate; it is hereby declared that sales made at public auction for that purpose are not liable to be annulled by the Courts of Judicature on the ground that the proceeds of the sales have

[¹] As to the local repeal of ss. 4 and 26, see the concluding paragraphs of foot-note [¹] on p. 133, *ante*.

[²] Portion of s. 4 which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[³] The words and figures "the case to be tried as a summary suit under Regulation 7, 1799," in s. 4, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[⁴] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[⁵] The words "and Board of Commissioners, respectively," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

(Secs 26 28)

materially exceeded the amount of the arrears due from the proprietor of the lands to Government

The Board of Revenue [1]* * * [2] will be guided in cases of that nature by their own discretion, subject, of course, to any instructions with which they may at any time be furnished by the [3] [Local Government]

[4]26. Inconvenience to the public and injury to private rights ^{Appoint-} having been experienced in certain cases from disputes subsisting among ^{ment by} the proprietors of joint-undivided estates it is hereby enacted that when- ^{Judges of} ever sufficient cause shall be shown by the Revenue Authorities, or by ^{managers} any of the individuals holding an interest in such estates, for the inter- ^{of joint} position of the Courts of Judicature, it shall be competent to the Zila ^{undivided} * * [5] Judges to appoint a person, duly qualified and under proper ^{estates.} security, to manage the estate, that is, to collect the rents and discharge the public revenue, and provide for the cultivation and future improvement of the estate * * * * [6]

[7]27. In like manner, should the Authorities aforesaid, or any ^{Court may} individual holding an interest in the estate, be at any subsequent time ^{be moved} dissatisfied with the conduct of the manager, it shall be competent for ^{for removal} them or him to represent the circumstances of the case to the Zila * ^{of managers.} * [8] Judge, and to move the Court for the removal of the said manager * * * * [9]

28. (Penalty and interest on arrears) Rep in part by Ben Reg. 12 of 1824 Residue rep by Ben Reg 7 of 1830

[1] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913), s 3 in Vol III of this Code

[2] The words "and Board of Commissioners, which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted

[3] The words "Governor General in Council in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, post, p 703

[4] As to the local extent of ss 4 and 26, see the concluding paragraphs of footnote [1] on p 133 ante.

[5] The words "and City," which were repealed by the Amending Act, 1903 (1 of 1903) are omitted

[6] Portions of s 26 which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted

[7] As to the local repeal of s 27, see the concluding paragraphs of foot note [1] on p 133, ante

[8] The words "or City," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

[9] Words repealed by the Repealing Act, 1874 (16 of 1874), are omitted

BENGAL REGULATION 11 OF 1812

(THE BENGAL FOREIGN IMMIGRANTS REGULATION, 1812) [1]

(18th July, 1812)

A Regulation to empower the [2][Local Government] to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.

1. Whereas considerable bodies of persons, being Natives of Arakan Preamble.] and ordinarily denominated Mughhs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier;

And whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava, [3] of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava, [3]

And whereas it is, in consequence, necessary that the [2][Local Government] should possess legal powers to remove the said bodies of

[1] **SHORT TITLE**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. I—see *post*, p. 610

LOCAL EXTENT—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1, *post*, p. 138

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (in General Acts, 1868 78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

The Regulation is in force in the district of Angul, see Vol. IV, Part IV, and, the Sonthal Parganas—*ibid*

OTHER ENACTMENTS—For powers for preventing subjects of Foreign States from residing or sojourning in British India, or from passing through or travelling therein, see the Foreigners Act, 1864 (3 of 1864), in General Acts, 1834 67, Ed. 1909, p. 423

For other enactments relating to foreigners, see the title "Alien" in the Index to the Indian Statutes, Ed. 1911, p. 29

[2] The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897)—see Sch. II, *post*, p. 605

[3] The Government of Ava has ceased to exist, its territories having been annexed to the British Dominions. The territories are now known as "Upper Burma"

(Secs. 2-3.)

emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated;

And whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.^[1]

Power to
order re-
moval
of emigrants
to parts of
country
deemed
convenient.

2. Whenever the ^[2][Local Government], upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the ^[2][Local Government] to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner it shall be competent to the ^[2][Local Government] to order such removal whenever ^[3][it] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants
allowed to
dispose of
property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper:

Provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the ^[2][Local Government] to order such property to be

^[1] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

^[2] The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897)—see Sch. II, *post*, p. 605.

^[3] This word "it" was substituted for the word "he" by the Burma Laws Act, 1898 (13 of 1898), s. 16, printed in the Burma Code, Ed. 1910, p. 135.

(Secs 4-5)

sold by public auction under the superintendence of the Collector^[1] of the district

In that case the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged

4. In cases in which the ^[2] [Local Government] may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the ^[2] [Local Government] to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time, as may be deemed by the ^[2] [Local Government] necessary for the public good

Power to order leaders or other emigrants to be apprehended and kept under restraint.

5. *First*—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence * * ^[3] and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated

Second—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence * * ^[3] and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years

Punishment for persons aiding or assisting in attempts to excite such disturbances.

Provided, however, that, if the Judge * * ^[4] by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall

Proviso.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s 35, *post*, p 267

[2] The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897)—see Sch II, *post*, p 605

[3] The words "before the Court of Circuit, in clauses *First* and *Second* of s 5, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[4] The words "of Circuit," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

(Sec. 3.)

3. *First*.—(Repeal of ss. 3 and 4 of Regs. 44 of 1793 and 50 of 1795.)
Rep. by the Repealing Act, 1874 (16 of 1874).

Rule for
apportioning
assessment
on shares
of estates
when
divided.

Second.—When a division of a joint estate shall be made on the application of the proprietors, or pursuant to the decree of a Court of Justice, the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares agreeably to the principles prescribed in section 10, Regulation 1, 1793, [1] * * * [2] without regard to any engagements that may subsist between the proprietors and their dependent *talukdars* (excepting the dependent *talukdars* described in section 7, Regulation 44, 1793,) [3] under-farmers or *rai-yats*.

But all leases made in conformity to sections 2 and 3, Regulation 5, 1812, [4] and section 2 of this Regulation shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of Court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift or otherwise.

[1] The Bengal Permanent Settlement Regulation, 1793. S. 10 is printed *ante*, p. 8.

[2] The words and figures "and s. 7; Regulation 27, 1795," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] Ben. Reg. 44 of 1793 was repealed by Act 29 of 1871, but the reference in the text is saved by s. 1 of that Act. The description in Reg. 44 of 1793, s. 7, is as follows :—

"such dependent *talukdars* as were exempted from any increase of assessment at the forming of the Decennial Settlement in virtue of the prohibition contained in clause *First*, s. 51, Regulation 8, 1793."

S. 51, clause *First*, of Ben. Reg. 8 of 1793, is printed *ante*, p. 38.

[4] The Bengal Land-revenue Sales Regulation, 1812. It is printed, *ante*, p. 133.

BENGAL REGULATION 29 OF 1814.

(THE BENGAL GHATWALI LANDS REGULATION, 1814) [1]

(3rd December, 1814)

A Regulation for the settlement of certain mahals in the district of Birbhum, usually denominated the Ghatwali mahals.

I WHEREAS the lands held by the class of persons denominated *ghatwals*, in the district of Birbhum, form a peculiar tenure to which the provisions of the existing Regulations are not expressly applicable,

And whereas every ground exists to believe that, according to the former usages and constitution of the country, this class of persons are entitled to hold their lands, generation after generation, in perpetuity, subject nevertheless to the payment of a fixed and established rent to the zamindar of Birbhum and to the performance of certain duties for the maintenance of the public peace and support of the police,

And whereas the rents payable by those tenants have been recently adjusted, after a full and minute inquiry made by the proper officers in the Revenue Department;

And whereas it is essential to give stability to the arrangements now established among the *ghatwals*, the following rules have been adopted,

[1] SHORT TITLE—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see *post*, p. 687

LOCAL EXTENT—This Regulation was passed only for the district of Birbhum—see the title and ss. 1 and 2

The first paragraph of s. 5 has, however, since been extended (in a restricted and modified form) by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 5, to Pargana Barabhum in the district of Manbhum, in the Chota Nagpur Division—see

“—see Vol. IV, Part IV
1 ‘Zamindar’ as used in the
100), includes the *Ghatwals* of
Lupah Surath Deoghar whose tenures are subject to the provisions of Regulation 29 of 1914—see the Sonthal Parganas Rural Police Regulation, 1910 (4 of 1910), s. 3 (c), *post*, p. 849

As to the formation of circles, for the purposes of Regulation 3 of 1900, in *Ghatwals* subject to Regulation 29 of 1814, see Sonthal Parganas Rural Police Regulation, 1910, s. 4, *post*, p. 850

LEASES—As to power of holders of *ghatwali* lands to grant leases, see the Bengal Ghatwali Lands Act, 1859 (5 of 1859), *post*, p. 393

NON APPLICATION OF BENGAL TENANCY ACT—The Bengal Tenancy Act, 1885 (8 of 1885) does not affect any incident of a *ghatwali* tenure—see s. 181 of that Act, *post*, p. 557

(Secs. 2-5.)

to be in force from the period of their promulgation in the district of Birbhum :

Ghatwals in Birbhum; and their descendants in perpetuity, to be maintained in possession of lands, and not liable to enhancement of rent.

2. A settlement having lately been made on the part of the Government with the *ghatwals* in the district of Birbhum, it is hereby declared that they and their descendants in perpetuity shall be maintained in possession of the lands so long as they shall respectively pay the revenue at present assessed upon them, and that they shall not be liable to any enhancement of rent so long as they shall punctually discharge the same and fulfil the other obligations of their tenure.

Ghatwali lands to form part of *zamindari* of Birbhum. Rents how paid.

3. The *ghatwali* lands shall be considered, as at present, to form a part of the *zamindari* of Birbhum; but the rents of *ghatwals* shall be paid direct to the Assistant Collector stationed at Suri, or to such other public officer as the Board of Revenue^[1] * * *^[2] may direct to receive the rents.

Amount payable to *zamindar* of Birbhum.

4. The difference between the amount of the revenue assessed on the *ghatwals* and the fixed assessment of revenue in this portion of the *zamindari* of Birbhum payable to Government shall be paid to the *zamindar* of Birbhum and his heirs and successors, in perpetuity.

Disposal of tenure of *ghatwals* failing to discharge rents.

5. Should any of the *ghatwals* at any time fail to discharge their stipulated rents, it shall be competent for the^[3] [Local Government]

to cause the *ghatwali* tenure of such defaulter to be sold by public sale in satisfaction of the arrears due from him, in like manner, and under the same rules, as lands held immediately of Government, or to make over the tenure of such defaulter to any person whom the^[3] [Local Government] may approve on the condition of making good the arrear due; or

to transfer it by grants assessed with the same revenue, or with an increased or reduced assessment, as to the Government may appear meet; or

[¹] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[²] The words "with the sanction of the Governor General in Council," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[³] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 703.

(Sec. 5.)

to dispose of it in such other form and manner as shall be judged by the [1] [Local Government] proper.[2]

Should any increase of revenue be obtained from the operation of any arrangements of the nature above described, such increase shall be paid in conformity to the tenor of the preceding article to the *zamindar* of Birbhum, his heirs and successors.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, *post*, p 703

[2] This paragraph has been extended to pargana Barabhum by the following notification —

No 1246 L. R., dated the 7th March 1903, published in the Gazette of India of 14th idem, Part 1, p 191, and in the Calcutta Gazette of 11th idem, Part 1, p 3131 — "In exercise of the powers conferred by ss 5 and 5A of the Scheduled Districts Act, 1874, and with the previous sanction of the Governor General in Council, the Lieutenant-Governor is pleased to extend to pargana Barabhum in the district of Manbhum the first paragraph of s 5 of Bengal Regulation 29 of 1814 (a regulation for the settlement of certain Mahals in the District of Birbhum, usually denominated the Ghatwali Mahals), in the following restricted and modified form —

Paragraph 1 of s 5 of Bengal Regulation 29 of 1814, as extended to pargana Barabhum

Should any of the Ghatwals at any time fail to pay the amount of any decree obtained against him in a competent Court for the rent of his tenure, or for any sum payable in respect of his tenure under the Cess Act, 1880, it shall be competent for the Commissioner, if written application is made to him by the decree holder within three years from the date of the decree, or (if the decree was made before the date of this notification, and the execution thereof has not at that date been barred by limitation) within six months from the date of this notification, either to make over the tenure of such defaulter to any person whom the Commissioner may approve, on the condition of his paying the amount of the decree, and also on the same conditions in respect to the payment in future of rent and cesses and the performance of the duties for the maintenance of the public peace to which the defaulter was liable at the time when the tenure was so made over, or

to cause the tenure of such defaulter to be sold by public auction, in satisfaction of the arrears due from him under the procedure prescribed in Act 11 of 1859 (an Act to re-arrange the arrears of revenue in the Lower Provinces and to amend all provisions of that Act so far as they relate to the same conditions in respect to the payment of the duties for the maintenance of the public peace to which the defaulter was liable at the time of the sale, or to dispose of the case in such manner as shall be judged by the Commissioner proper."

BENGAL REGULATION 5 OF 1816.

(THE BENGAL KANUNGOS REGULATION, 1816)^[1]

(16th February, 1816)

A Regulation for establishing the Office of Kanungo in the district of Cuttack, the pargana of Pataspur, and the several parganas dependent on it ^[2]

1. Whereas the establishment of the office of kanungo in the district of *Cuttack, the pargana of Pataspur and its dependencies*^[2] may be expected to be of great public benefit in removing the obstacles which have hitherto impeded the revision of the settlement of the district and parganas abovementioned,^[2] and in otherwise facilitating the collection of the public revenue and the administration of justice, the following rules have been enacted * * * ^[3]

2. One or two persons shall be appointed to fill the office of kanungo in every pargana of the district of *Cuttack, in the pargana of Pataspur, and in the several parganas dependent on it*,^[2] unless the small extent of a pargana shall render it advisable to place more than one pargana under the same kanungo Appoint
ment of
kanungos

3. These officers shall be nominated by the Collectors^[4] of *Cuttack and Hylk*^[2] within their respective local jurisdictions, for the approval Nomination
and removal

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see *post*, p 687

LOCAL EXTENT.—This Regulation was extended generally to the former Province of Bengal by the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s 4 (1), *post* p 181, but it may be suspended in any *mahal*—see *ibid*, s 4 (4), *post*, p 182

The application of the Regulation to the *de-regulated tracts in Bihar and Orissa* is barred as follows, namely—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p 864,

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (3), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), *post*, p 777

FURTHER ENACTMENTS.—For further enactments relating to *Kanungos and Patwaris*, see—

the Bengal Patwaris Regulation, 1817 (12 of 1817), *post*, p 153 and

the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), *post*, p 181

[2] The words printed in italics are obsolete, this Regulation having been extended to the whole of the former Province of Bengal by the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s 4 (1), *post*, p 181

[3] The commencement clause, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted

[4] As to the exercise of functions of the Collector under this Regulation by other officers, see—

the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p 181, and

the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s 35, *post*, p 267

(Secs. 4-5.)

of the Board of Revenue,[¹] and shall not be removable from office, except for sufficient cause proved to the satisfaction of that authority * * * * [²].

Office of
kánungo not
hereditary.

4. The office of *kánungo* is declared not to be hereditary; but, in all *parganas* in which persons may be found who formerly discharged the duties of *kánungo*, the officers to be appointed under this Regulation shall, as far as practicable, be selected from them; and in supplying future vacancies the Collectors[³] shall make it a rule, in all practicable cases, to select from the families of the *kánungos* such persons as from character, education and acquirements shall be best qualified to perform the duty.

Salaries of
kánungos.

5. The *kánungos* appointed under this Regulation shall receive such salaries as the[⁴] [Local Government] may think proper to fix for their support.

The salaries so granted shall be considered to preclude all claims to further pecuniary allowances, under the denomination of *nánkár*, or any other denomination.

Revenue of
lands held
by kánungos
liable to
resumption.

It is also hereby declared that the revenue of all lands, the grant of which may be found to have been obtained by any person in virtue of his discharging the duties of *kánungos*, will be liable to resumption[⁵] by Government; and that this rule shall be considered applicable both to the persons who may be appointed to the office of *kánungo* under the present Regulation, and to those who may not be employed in the public service.

Nothing, however, contained in this provision shall be construed to preclude the[⁴] [Local Government] from continuing to either of those classes of persons the whole or a part of the lands held by them respectively free of assessment, in those cases in which the circumstances of the parties may appear to require that indulgence.

[¹] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[²] The words and figures "under the provisions of Regulation 5, 1804, and Regulation 8, 1809," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[³] As to the exercise of functions of the Collector under this Regulation by other officers, see—

the Bengal Kánungos and Patwáris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 181, and

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[⁴] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government," were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 703.

[⁵] For power to continue *minhaidars* in possession of lands the revenue of which has been resumed, and for declaration as to the heritability and transferability of *minhaidari* tenures, see the Bengal Land-revenue Settlement (Resumed Kánungos and Revenue-free Lands) Regulation, 1825 (13 of 1825), ss. 2, 3, *post*, pp. 304, 305.

(Secs 6 8)

6. The above rule is not to preclude claims to rent free lands, or Exemption. pensions held by the *kanungos* under grants made to the individuals for reasons unconnected with the office of *kanungo*

7. The *kanungos* are to execute the duties herein specified—

Duties of
kanungos.

First—To keep a counterpart *jama uasil-baki*, or account of the collections made by the *tahsildars* or by *sazauals* from lands held *khas* or under attachment

Second—To keep an account of all lands held under rent-free tenures, whether the grants be hereditary or otherwise, and to report to the Collector^[1] all escheats of such lands to Government

Third—To keep a list of the *patwaris* in each village, and a register of *pattas* granted by the landholders to their under tenants

Fourth—To keep a register of all transfers of estates by sale (public or private), mortgage, lease or otherwise, and to attest such transfers at the request of the parties, without fee or gratuity, with their official signatures

Fifth—To compile information regarding local boundaries of *parganas* and estates, the number and names of villages, articles of produce, rates of rent, rules and customs established in each *pargana*, and to furnish at the requisition of the Courts of Justice and of the Collectors^[1] all local information within their cognizance

Sixth—To assist at all admeasurements of land, whether undertaken by the officers of Government in conformity to the Regulations, or by the landholders or *rayats*, and to record the same

Seventh—To prepare and keep the information and accounts directed in this or any future Regulation, in such manner and form as may be from time to time prescribed by the Board of Revenue^[2]

Eighth—To report to the Collector^[1] the death of a *malguzar* and the name of his heirs, and to keep a register of all successions to lands

8. Persons who may be selected to fill the office of *kanungo* are hereby prohibited from holding farms, or from becoming sureties for farmers or *zamindars*, within the local limits of their official duties

Kanungos not
to hold farms
or become
sureties.

[1] As to the exercise of functions of Collector under this Regulation by other officers, see—

the Bengal *Kanungos* and *Patwaris* Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 181, and

the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267

[2] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913), s. 3 Vol III, of this Code

(Secs. 9-12.)

Transfer of records to successors.

9. On the death, resignation or removal of a *kánungo* the records of the office are to be made over to his successor, and the Magistrate of the *zila* is enjoined, on the application of the Collector,^[1] to interpose his authority, in all cases in which it may be necessary to enforce the surrender of such records.

unishment on refusal to give them up.

10. The refusal or manifest evasion of any person in possession of the records mentioned in the preceding section to deliver them up on the requisition of the Magistrate is hereby declared to subject the party so offending, on proof thereof, to the penalties prescribed * *^[2] for resistance to the process of the Magistrate.

Right of Government to vary number of *kánungos*.

11. Nothing contained in this Regulation shall be construed to preclude the^[3] [Local Government] from exercising the right of decreasing the number of *kánungos*; of abolishing the office in any *pargana* where from local circumstances the duty may be performed by less than two persons or by the *kánungos* in a neighbouring *pargana*; nor from exercising the right to increase the number of *kánungos* in any *pargana* where from circumstances more than two may be found necessary.

Collectors to report when variations are necessary

12. The Collectors^[1] of *Cuttack and Hijli*^[4] are enjoined to report to Government, through the usual channel, all instances wherein they may deem it expedient to increase or diminish the number of *kánungos* in a *pargana*, with their reasons at large for such opinion.

[¹] As to the exercise of functions of the Collector under this Regulation by other officers, see—

the Bengal *Kánungos* and *Patwáris* Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 181, and

the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[²] The words "by the Regulations," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[³] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 703.

[⁴] The words printed in italics are obsolete, this Regulation having been extended to the whole of the former Province of Bengal by the Bengal *Kánungos* and *Patwáris* Regulation, 1819 (1 of 1819), s. 4 (1), *post*, p. 181.

BENGAL REGULATION 12 of 1817.

(THE BENGAL PATWARIS REGULATION, 1817)

CONTENTS.

SECTION

- 1 Preamble
- 2 (*Repealed*)
- 3 Every village to have separate *patwari*
- 4 to 6 (*Repealed*)
- 7 Vacancies how filled up
- 8 Procedure of Collector on receiving nomination of *patwari*.
- 9 Rules regarding *patwaris* in joint and undivided estates
- 10 Rules as to *patwaris* in *khas* estates.
- 11 Penalty in cases of refusal or omission to comply with rules
- 12 Procedure of *zamindars* wishing to remove *patwari*
- 13 Penalties for removing *patwari* without authority
- 14 *Patwaris* removable on representation of under tenants
- 15 Procedure of Collector desiring to remove *patwaris*
- 16 Duties of *patwaris*
- 17 Transmitting and recording *patwaris*' accounts
- 18 Payment of *patwaris*, and adjustment of their allowances in certain cases.
- 19 Remuneration of *patwaris* in villages where none are now appointed
- 20 Procedure on refusal of payment of established remuneration to *patwaris*.
- 21 Local usage of *pargana* to be reported by *pargana kánungo*
- 22 Power to summon *patwari* and to examine him on oath to the truth of his accounts
- 23 Power to compel *patwaris* to produce their accounts
- 24 *Patwaris* to produce accounts when required by Courts of Justice
25. Power to require attendance of *patwaris* on officers deputed to examine village-accounts and to grant commission to swear *patwaris*
- 26 (*Repealed*)
- 27 Punishment for *patwaris* falsifying or mutilating village accounts
- 28 (*Repealed*)
- 29 Power to require attendance of Native agents of proprietors whose estates are to be sold, transferred or divided, and to cause them to be examined on oath touching accounts.
- 30 Section 27 applied to Native agents
- 31 Procedure in cases not provided for when attendance of proprietors or farmers with accounts is required
- 32 Notice to person required to attend
Penalty for omission or refusal
- 33 Provision in cases where appointment of village *patwaris* is inexpedient
- 34 In what cases Courts prohibited from taking cognizance of complaints of *patwaris*
- 35 Appeal to Commissioner from decision or order under section 20
36. Recovery and appropriation of fines, etc.

(THE BENGAL PATWARIS REGULATION, 1817) [1]

(12th August, 1817)

A Regulation for securing the better administration of the
Office of *patwari* * * * [2].

1 The existing Regulations regarding *patwaris* have been found to be in many respects defective, and great difficulties and delays have consequently been experienced in the division of estates, the adjustment of the revenue to be assessed on their respective shares, the investigation of summary and other suits for rents, the decision of disputes relating to the limits of estates and villages, and the execution of decrees of the Courts of Judicature, in regard to the possession and property of land the reform of the office appears therefore to be an object of the highest importance * * * [2].

The following rules have therefore been enacted * * * [3]

2. (Repeal of enactments relating to appointment of *patwaris*)
Rep by the Repealing Act, 1874 (16 of 1874)

3 Every village paying, or liable to pay, the public revenue shall have a separate *patwari*, except in cases where the Board of Revenue [1] or other authority exercising the power of that Board shall, in consideration of former usage or other sufficient cause, authorise one *patwari* to do the duty of two or more villages, or direct two or more *patwaris* to be established in a single village

4 to 6 (Every village to have a separate *patwari*, continuation of *patwaris* now in office, procedure in nominating *patwaris*) *Rep by the Repealing Act, 1874 (16 of 1874)*

[1] Short Title—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see post, p 687

Local Extent—This Regulation was extended to the former Province of Bengal generally by the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s 4 (2), post, p 181 but it may be suspended in any *maddat*—see ibid, s 4 (4) Power to suspend the operation of the Regulation temporarily, in parts of the Province was given by Bengal Regulation 1819 (1 of 1819), s 4 (5), post, p 182 It is in force in the Southal Parganas, see Vol IV, Part IV

Its application is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (3) post p 864

[2] The words in the title and s 1 as to local extent, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

[3] The clauses in s 1 as to commencement and local extent, which was repealed by the Amending Act, 1903 (1 of 1903), is omitted

[4] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913), s 3 in Vol III of this Code

(Secs. 7-9.)

7. Whenever a vacancy may occur in the office of *patidari*, such vacancy shall be filled on the nomination of the *zamindar* or other holder or farmer, engaging with Government for the public revenue, who is hereby enjoined to report such nomination to the Collector^[1] of the district within one month after the vacancy has taken place:

Provided, however, that in such nomination the *zamindar* or other landholder or farmer shall be generally guided by the custom which may heretofore have prevailed in the village in respect to the succession of *patidaris*, and shall not deviate therefrom without previously obtaining the sanction of the Collector^[1] and it shall be the duty of the Collector^[1] carefully to see that this rule is observed, and particularly that the just rights of the inferior *patidaris*, or sharers in joint undivided estates, and of dependent *talukdars*, or other under-tenants of the lands, as connected with the appointment of *patidaris*, are duly maintained.

8. On receiving the report of the nomination of a *patidar*, as directed to be made in the foregoing section, the Collector^[1] is to insert the name of the party in the register of *patidaris* for his district, unless he shall see good and sufficient ground to object to the person so nominated as disqualified for the office, in which case he is immediately to submit his objections to the Board of Revenue^[2], * * * * * and the Board^[2] * * * * * will decide whether the *zamindar* or farmer shall be called upon to nominate another person, or pass such other order on the question as may appear just and right.

9. The proprietors of joint and undivided estates engaging jointly for the public revenue shall be considered jointly and severally bound * * * * * to nominate a *patidar* in the mode prescribed in * * * * * this Regulation, or to show sufficient cause for their failing to do so.

[1] As to the exercise of functions of Collector under this Regulation by other officers, see—

the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 181, and
the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.
[3] The words "the Board of Commissioners, or the Commissioner in Bihar and Benares, as the case may be," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.
[4] The words "or Commissioner," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.
[5] The words and figures "to furnish the Collector with the statement required in s. 4 and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.
[6] The words and figures "ss. 5 and 7 of," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

Rules
regarding
patidaris in
joint and
undivided
estates.

Procedure of
Collector on
receiving
nomination of
patidar.

Vacancies
how filled up.

(Secs 10-13.)

10. In estates held *khaz*, and in estates under the superintendence of the Court of Wards, the *patwar* shall be appointed by the Collector [1] Rules as to *khaz* estates.

[2] 11. Should any *zamindar* or other proprietor or farmer refuse or omit * * * [3] to nominate a *patwar* in the cases provided for in cases of refusal or * * * [4] this Regulation within the time prescribed * * * [5] and shall fail to show good cause for such neglect or failure, it shall be competent to the Collector, [1] with the approval of the Board of Revenue, [2] to levy a daily fine upon him until a *patwar* is nominated, or, with such approval, himself to nominate a qualified person for the office

12. Whenever a *zamindar* or farmer engaging with Government for the public revenue may wish to remove a *patwar* from office, he is to state his reasons for so doing to the Collector [1] of the district, who, if they appear good and sufficient, will authorize the removal of the *patwar*, but not otherwise

13. Any *zamindar* or other landholder or farmer of land removing a *patwar* from office without the authority of the Collector [1] obtained in the mode prescribed in the preceding section shall be punished by a fine not exceeding fifty rupees for the first offence and one hundred rupees for the second offence, [2]

and if it should appear, on investigation by the Collector, [1] that the removal was unjust and without sufficient cause, the said *zamindar* or other landholder or farmer of land shall be further subject to a daily fine, with the approbation of the Board of Revenue [2] * * * [3] but not otherwise, until the *patwar* be restored

[1] As to the exercise of functions of Collector under this Regulation by other officers, see—

the Bengal Kanungos and Patwaris Regulation, 1818 (1 of 1819), s 4 (5), *post*, p 181, and

the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s 35, *post*, p 267

[1] S 11 is explained by the Bengal Kanungos and Patwaris Regulation, 1819 (Ben Reg 1 of 1819), s 6, *post*, p 185

[2] The words and figures "to furnish the statement required by section 4 or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[3] The words and figures "as 5 and 7 of," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[4] The words "in those sections," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[5] As to the exercise of functions of the Board of Revenue by the other authorities, see references cited in footnote to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913), s 3 in Vol III of this Code

109 in Bihar and Orissa Act, 1874 (16 of 1874), see the Bengal

[7] The words "the Board of Commissioners, or the Commissioner in Bihar and Benares," in ss 13, 15 and 16, respectively, which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted

(Secs. 14-18.)

14. Whenever the inferior *patidars*, or sharers, or the *rayats* or under-tenants of a village may petition the Collector^[1] for the removal of the *patidari*, the Collector^[1] shall direct such removal, and shall call upon the *zamindar* or other landholder or farmer of land engaging with Government for the public revenue to appoint another *patidari*:
 Provided the reasons adduced for praying such removal appear to the Collector^[1] good and sufficient, but not otherwise.

15. Whenever a Collector^[1] shall see ground to desire the removal of a *patidari* for neglect of duty or other sufficient cause, he is to state his reasons to the Board of Revenue,^[2] * * *^[3] [as the case may be], who will authorize the removal or not, as may seem proper.

16. The duties of the *patidari* shall be—
First.—To keep such registers and accounts relating to the village or villages to which he is appointed, in such manner and form as has hitherto been the custom, or in such other mode as may be hereafter prescribed by the Board of Revenue,^[2] * * *^[3] together with such further registers and accounts as may be directed by those authorities respectively.

Second.—To prepare and deliver to the *kārungo* of the *pargana*, at the expiration of every six months, a complete copy of the aforesaid accounts showing distinctly the produce of the *khari* and *wabi* harvests. *Third*.—To perform all other duties and services which it has been customary for him to execute.

17. The Board of Revenue^[2] * * *^[4] will determine on the mode in which the accounts rendered by the *patidari* to the *kārungo* shall be brought forward by the latter, and recorded in the office of the Collectors.^[1]

18. The *patidari* is to be paid hereafter in the same mode as he is now paid, whether in money, or in grain, or in any other legal adjustment of *patidaris*, and their allowance in certain cases to complete an account of the mode in which such payment is made in

[1] As to the exercise of functions of Collector under this Regulation by other officers, see—
 the Bengal *Kārungos* and *Patwaris* Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 181, and
 the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.
 [2] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.
 [3] The words "the Board of Commissioners, or the Commissioner in Bihar and Benares," in ss. 13, 15 and 16, respectively, which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.
 [4] The words "Board of Commissioners, or Commissioner in Bihar and Benares," in s. 17, which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

Patidaris removable on representation of under-tenants.

Procedure of Collector desiring to remove *patidaris*.
 Duties of *patidaris*.

the different *parganas* or other local divisions of their districts, and to submit the result of their researches to the Board of Revenue or other authority[?] exercising the powers of that Board, and it shall be competent to the Board of Revenue or other authority[?] aforesaid, with the sanction of the[?] [Local Government], to increase or reduce the amount of remuneration paid to the *patwaris* and to alter or modify the mode of its payment, in any case in which sufficient cause for the adoption of such a measure shall exist

19. Where no *patwars* has hitherto been appointed the amount of the remuneration of *patwaris* who may be appointed under this Regulation shall be regulated by the Collector, and the mode of its payment, shall be regulated by the Collector, with reference to the usage of the adjoining villages

20. If the remuneration, which a *patwar* has heretofore regularly received or which may be assigned to him by the Collector[?] or other authority, be denied to him by the parties who have hitherto paid it, or who may have been directed to pay it by the said authority, he is at liberty to complain against the person so withholding his dues to the Collector[?] who will proceed to an immediate investigation of the facts, and decide according to the usage of the village, and the Collector[?] is hereby authorized to compel payment of the amount due to the *patwar*, and to fine the offending party according to his situation and circumstances in life

21. In all cases in which the decision of the Collector[?] is to be governed by usage, it shall be made an invariable rule to insert in the original proceedings on the case the attested report of the *kanungos* of the *pargana*, as to the custom or usage in reference

22. Collectors[?] of land revenue are hereby empowered to summon the *patwar* of any village or villages within their respective districts, whenever there may be occasion for his attendance on any matter connected with the duties of his office, and to require him to produce all accounts relating to the lands, produce, rents, collections and charges of the village or villages, the accounts of which may be kept by him, and

the Board of Revenue by other authorities, see Code and Orissa Board of Revenue Act, 1913 (B and Council in the original text are to be read as substituted therefor—see the amending Act, 1903 (1 of 1903) Sec II, post p 703

[?] As to the exercise of functions of the Collector under this Regulation by other officers see—

the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (3), post, p 181, and the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s. 35, post, p 267

(Secs. 23-25.)

to examine him on oath^[1] to the truth of such accounts, and on any other matters relating to such accounts, or regarding the lands, produce, rents, collections and charges of the village or villages to which the said *patwari* may belong.

When a Collector^[2] shall require the attendance of a *patwari* for the purpose above stated, he is to serve such *patwari* with a written notice under his official seal and signature, stating the purpose for which his attendance is required, and the papers (if any) which he is to bring with him.

23. If any *patwari* shall neglect or omit to produce his original accounts on the requisition of a Collector^[2] or to give his evidence respecting them, the Collector^[2] is hereby authorized and empowered to cause the said *patwari* to be apprehended and to order him to be confined in the *Divani* jail of the district until he produce his accounts, or show sufficient cause for not producing them.

In such cases the *patwari* shall be sent by the Collector^[2] with a *rubakari* to the Judge of the * * *^[3] *xila*, stating the purport of the order passed against him; and the Judge shall, on those grounds, commit the *patwari* to jail, and detain him until he produce the accounts, or until the Collector^[2] applies for his release.

24. In like manner *patwaris* shall produce all accounts relating to the lands, produce, collections and charges of the village or villages the accounts of which may be kept by them respectively, and furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of Justice, in any suit that may be depending before the Court;

and if any *patwari* shall neglect or omit to attend with his accounts when required, for the adjustment of any matter or dispute depending in Court, the Courts are authorized to order such *patwari* to be committed to close custody until he produce the accounts, or show sufficient cause for not having produced them.

[1] 25. In any case in which a Collector^[2] of land-revenue shall have occasion to depute an officer to examine the accounts of any village or

[1] As to oaths and affirmations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-78, Ed. 1909, p. 385.

[2] As to the exercise of functions of the Collector under this Regulation by other officers, see—
the Bengal *Kanungos* and *Patwaris* Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 181, and
the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[3] The words "City or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.
[1] As to the conferment, on Native officers making inquiries preparatory to settlement, of the powers provided by s. 25, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 24, *post*, p. 261.

Patwaris to produce accounts when required by Courts of Justice.

Power to compel *patwaris* to produce their accounts.

Power to require attendance of

(Sees. 26-29.)

villages, he is authorized to require the *patwaris* to attend such officer, *patwaris* on and the Collector[?] is further empowered to grant to such officer a commission to swear[?] the several *patwaris* whose accounts are to be examined, inserting in the commission the name of each *patwari* to be sworn to; and if any such *patwari* shall neglect or refuse to attend such officer with his accounts, or to give his evidence respecting them, when duly required to do so by a written notice from the Collector[?] the Collector[?] is hereby authorized and empowered to proceed against such *patwari* in the same mode as if he had refused or neglected to attend or to give his evidence before the Collector[?] himself.

26. (*Patwaris giving false depositions, when guilty of perjury.*)
Rep. by the Repealing Act, 1876 (12 of 1876).

27. * * * [?] any *patwari* who shall alter, fabricate, falsify or mutilate the accounts of the village to which he belongs, or shall furnish to the *Kanungo* or Collector[?] false, fabricated or mutilated copies of those accounts, shall be held and considered guilty of forgery, and shall be liable, on conviction, * * * [?] to the penalties which are or may be prescribed for that offence * * * [?];

and any person who shall cause or procure any such forgery shall be liable to the same penalties as those convicted of having actually committed the offence.

28. (*Existing rules requiring the attendance of proprietors, etc., of lands sold or divided, declared still in force.*) *Rep. by the Repealing Act, 1876 (12 of 1876).*

29. * * * [?] whenever an estate or the portion of an estate may be directed to be disposed of at public sale, or may be transferred by the private act of the proprietor or proprietors, or when an estate may be divided pursuant to a decree of a Court of Judicature or at the request of one or more of the proprietors, or when an estate or portion of an estate may be under attachment, the Collector[?] shall be authorized to require attendance of Native agents or proprietors of those estates transferred or divided.

[?] As to the exercise of functions of the Collectors under this Regulation by other officers, see—
 the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (3), *post*,
 the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*,
 p. 267.

[?] As to
 General Act
 [?] The
 Amending
 [?] The
 Repealing A
 [?] The
 (16 of 1874), are omitted.

and 29, which were repealed by the
 in s. 27, which were repealed by the
 ere repealed by the Repealing Act, 1874

(Secs. 30-31.)

and to cause them to be examined on oath touching accounts, to require the attendance of and take or cause to be taken the examination of *patwaris*;

and if such agents shall refuse or neglect to attend the Collector^[2] or his officer, when their attendance may be duly required, or to give their evidence, the Collector^[2] is authorized and empowered to proceed against them in the same manner as is prescribed in the case of *patwaris* refusing or neglecting to attend.

30. * * * [3] the rules contained in sections * * * [1] 27 shall be held and considered applicable to all such Native agents employed by proprietors or farmers of land, in the management of their estates or farms, or in keeping the accounts relating to them.

31. Whenever a Collector of land-revenue, or other officer vested with the powers of a Collector^[2] may in any case connected with his public duty, but not provided for in this or any other Regulation in force, have occasion to require the attendance of a *zamindar* or other proprietor or farmer of lands, or of the *gundashita* or other agent of such proprietor or farmer, with the accounts of such lands, he shall report the circumstances to the Board of Revenue^[3] * * * [6] and the [7] Board is hereby empowered to grant authority to the Collector^[2] or other officer aforesaid, to require the attendance of the proprietor or farmer, or of the *gundashita* or other officer or agent, with all accounts relating to the lands in their possession or management.

[1] As to oaths and affirmations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-78, Ed. 1909, p. 385.

[2] As to the exercise of functions of the Collectors under this Regulation by other officers, see—
the Bengal *Kanungos* and *Patwaris* Regulation, 1819 (1 of 1819), s. 4 (3), *post*, p. 181, and
the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[3] The words "Provided further that," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.
[1] S. 30, so far as it relates to s. 26, having been repealed by the Repealing Act, 1876 (12 of 1876), the figures and word "26 and" have been omitted.
[2] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[1] The Board of Commissioners, or the Commissioner in Bihar and Benares, according as he may be subject to one or the other of those authorities," in s. 31, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.
[2] The words "Board is," in s. 31, were substituted for the words "Boards are" by the Amending Act, 1891 (12 of 1891). The words "and Commissioner aforesaid," which occurred after "Boards," were repealed by the Repealing Act, 1874 (16 of 1874), and are omitted.

(Secs. 32-33)

32 A written notice shall in such cases be issued by the Collector^[1] Notice to or other officer to the party whose attendances are required, stating the purpose for which he is summoned, and the papers (if any) which he is to bring with him;

and, if the proprietor or farmer shall omit or refuse to attend, or Penalty for cause his officer or agent to attend, by the time prescribed in the Col- llector's^[1] requisition, with the accounts and information required, the Board of Revenue^[2] * * * *^[3] are authorized and empowered to impose upon him such daily fine,^[4] to be payable daily until he com- ples with the Collector's^[1] requisition, as they may think adequate to his situation and circumstances in life, * * * *^[5]

The fine * * *^[6] is to be levied by the same process as is pre- scribed for the recovery of arrears of revenue

33. In cases in which, from local or other sufficient causes, it may appear impracticable or inexpedient to cause the appointment in any estate or farm of *patawaris*, in the mode prescribed in this Regulation, as, for instance, in certain estates consisting chiefly of hills and forests in the south western frontier, and in very small *mahals*, the accounts of which are kept by the proprietors themselves, it shall be competent to the Board of Revenue^[7] * * * *^[8] to suspend its operation in such estates or farms

Provided, however, that in all such cases, the person by whom the village accounts are kept, whether proprietor or farmer, or *gumdshta* or other officer, shall furnish the *kamungo* of the *pargana* with such accounts and statement, as the Collector, with the approval of the Board^[9] * * *

[1] As to the exercise of functions of the Collector under this Regulation by other officers see— the Bengal Kamungos and Patwaris Regulation, 1819 (1 of 1819), s 4 (3) post, p 181, and the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s 35, 1834, p 367

[2] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (13 and O Act 1 of 1913), s 3 in Vol III of this Code

[3] The words 'Board of Commissioners and Commissioners in Bihar and Benares, as the case may be, in s 32, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

land, see

Governor's Amending Act,

by the Repealing

that of Benares

as the case may be, in s. 33, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

*[1] may direct; and shall be subject to the provisions contained in sections 22, 23, 24, 25 * [2] and 27 of this Regulation; and the proprietors or others by whom they may be employed shall likewise be subject to the provisions contained in sections * [3] 27.

34. No Court of Judicature shall take cognizance of the complaint of a *patwari* against the landholder, or the tenants of a village, for refusing to remunerate his labours, nor shall any Court of Judicature take cognizance of any complaint against a Collector^[4] for, or on account of, any decision passed by him in virtue of the powers with which he is vested by this Regulation.

[5] 35. (1) Any person aggrieved by a decision or order of a Collector^[4] under section 20 of this Regulation may appeal within six months from the date thereof to the Commissioner of the Division.

(2) The Commissioner may reverse or alter any such decision or order in appeal.

36. All sums adjudged by the Collector^[4] in favour of a *patwari* under section 20, and all fines directed to be levied by this Regulation, shall be recoverable by the same processes as arrears of the public revenue; and all such fines, when recovered, shall be carried to the account of Government.

[1] The words "or Commissioner," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] Section 35, so far as it relates to s. 26, having been repealed by the Repealing Act, 1876 (12 of 1876), the figures "26" have here been omitted.

[3] For the reason stated in foot-note [2] the figures and word "26 and" have here been omitted.

[4] As to the exercise of functions of the Collector under this Regulation by other officers, see—
the Bengal Kanungos and Patwaris Regulation, 1819 (1 of 1819), s. 4 (g), *post*, p. 181, and
the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

[5] This section was substituted for the original s. 35 by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 336.

BENGAL REGULATION 20 OF 1817.
(THE BENGAL POLICE REGULATION, 1817)

CONTENTS.

SECTION

1 to 20 (Repealed)

Village Watchmen

21 First—Darogas to be

Second—Village wate

Third—Delivery of reports of

Fourth—Occurrences reported by village watchmen to be entered in *khana* diaries

Fifth—Proclaimed offenders, etc., to be sent to *khana* by village watchmen

Sixth—Receiving reports of village watchmen

Seventh—Supervision to be exercised by *daroga*

Eighth—Watchmen not to be employed on *darogas'* private concerns

Ninth—In places where regular police-establishments are stationed, watching by

Tenth—Village watchmen to resist robbers and to require *zamindars* and head-

men to assist in pursuit and apprehension of criminals

22 to 28 (Repealed)

Execution of Criminal Process in the Opium Department, and duties of Darogas relating

to that Department

29 First.—Security for appearance of persons employed under Opium Department

Second—In such cases, the accused not to be forced to appear till manufacturing

season

Third—Rules for serving summonses on witnesses employed in the Opium Depart-

ment, and form of their recognizance

Fourth—Warrants for offences not bailable to be served upon persons so employed,

as upon others,

30 First—Darogas to report circumstances appearing dangerous to public peace.

Second—To apprehend unauthorized persons dressed in uniform of Company's

sepoys

Third and Fourth—(Repealed)

Fifth—Darogas to report encroachments on public roads

31 to 34 (Repealed)

Forms Nos 1 to 5—(Repealed)
Form No 6—Register of village watchmen and Alphabetical List of villages.
Forms Nos 7 to 12—(Repealed)
Form No 13—Recognizance to be taken from a witness.
Forms Nos 14 to 21—(Repealed)

BENGAL REGULATION 20 OF 1817.

(THE BENGAL POLICE REGULATION, 1817.) [7]

(7th October, 1817.)

A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of *dawogas* and other subordinate officers of police; * * * [7]

1 to 8. (Preamble; local extent, repeals; appointment and removal of police-officers; rank and functions of officers on *thana* establishments; seal and police accoutrements; police-officers at outposts; leave rules; *thana* records) Rep. by the Repealing Act, 1874 (16 of 1874).

9. (Police returns, etc., to be sent to Magistrates or Superintendents.) Rep. by Act 17 of 1862.

10, 11. (Daks for official papers; prohibition of irregular practices) Rep. by the Repealing Act, 1874 (16 of 1874)

12 to 20. (Charges not cognizable by police; duties of officers on receiving charges; rules for holding inquests; inquiries in case of heinous offences; search for stolen property; duties of Police regard to corners, etc., in case of riots; in treatment of prisoners, in regard to notorious offenders.) Rep. by Act 17 of 1862.

[1] Short Title—This short title was given by the Amending Act, 1903 (1 of 1903), Sec 1—see post, p 668
 Local Extent—Ss 29 and 30 (1), (2) and (3) have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed in General Acts, 1868 78, Ld 1909, p 458) to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts
 S 21 is not mentioned in the Laws Local Extent Act, 1874 That section originally extended, like the whole Regulation, to the whole of the former Province of Bengal—see s 1, which was repealed by the Repealing Act, 1874 (16 of 1874) S 21 has been repealed in various places—see foot note [1] on p 166, post
 The unrepealed portions of this Regulation have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the districts of Hazaribagh, Ranchi, Palaman and Manbhum, and Pargana Dhalbhum, in the district of Singbhum, in the Chota Nagpur Division, see Vol IV, Part III
 The application of the Regulation is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), post, p 864, and the Southern Parganas, by the Southern Parganas Settlement Regulation, 1873 (3 of 1873), s 3 (2), as amended by the Southern Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, post, p 833
 [7] Words in the title which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted

Village watchmen.

[1] 21. First.—It shall be the duty of the *darogas* of police, under the guidance and instruction of the Magistrate, to prepare and keep up at their *thanas* a complete register of the village watchmen employed within the limits of the said *darogas* respectively, drawn out after the form No. 6 of the Appendix;

and, upon the death or removal of any of the watchmen, the land-holders and other persons to whom the right of nomination to such vacancies shall belong, shall send the names of the persons whom they may appoint to the *daroga* of the jurisdiction, that they may be registered by him as above directed.

Second.—The village watchmen are declared subject to the orders of the police *darogas*.

Third.—Village watchmen who may reside within one *kos* of the *thana* station to which they may be subject shall report daily to the *thana* all occurrences connected with the police which may have happened in their respective villages during the preceding twenty-four hours; village watchmen residing from one to three *kos* distant from the *thana* shall furnish similar reports twice every week; and all other watchmen whose residence may be situated at a greater distance shall report once in every week or fortnight, as they may be specially instructed by the police *daroga* so to do.

Fourth.—All occurrences reported by the village watchmen shall be recorded by the *muhawirs* in the *thana* diaries; but it shall not be considered necessary to enter in such diaries the reports of watchmen who have no communication to make further than that the peace of their divisions has been undisturbed since their last report.

Fifth.—The village watchmen shall apprehend and send to the *daroga* or other police-officer presiding at a *thana* any person who may be taken in the act of committing murder, robbery, house-breaking or theft; also proclaimed offenders, and persons against whom a hue and cry shall have been raised of their having been concerned in a recent criminal offence.

It shall further be the special duty of the village watchmen to convey to the *thana* immediate intelligence of any robbers who may have con-

[1] Section 21 has been repealed as to all villages (and Unions) to which the Village Chaudhari Act, 1870 (Ben. Act 6 of 1870), applies and in which a *chaukidar* has been appointed—see Ben. Act 6 of 1870, s. 2, and 1 of 1871, s. 1, in Vol. II of this Code. This section has also been repealed so far as it affects every place to which the Chota Nagpur Rural Police Act, 1914 (B. and O. Act 1 of 1914), applies—see s. 38 of that Act, in Vol. III of this Code.

Darogas to keep complete list of village watchmen.
Zamindars or others to nominate successor on occurrence of vacancy.
Village watchmen subject to Police *darogas*.
Delivery of reports of watchmen residing at a certain distance from the *thanas*.
Occurrences reported by village watchmen to be entered in *thana* diaries.
Proclaimed offenders, etc., to be sent to *thana* by village watchmen.

cealed themselves in their respective villages, or in the adjacent country; and also of any vagrants, or other persons who may be lurking about the country without any ostensible means of subsistence, and who cannot give a satisfactory account of themselves.

It shall likewise be the business of the village watchmen to convey early information to the *thana* of all murders, robberies, burglaries, thefts, violent affrays and other heinous offences perpetrated in the villages or places in which they may be stationed.

Sixth.—The report of the village watchmen to the police-officers of receiving reports of village watchmen, be sworn to their depositions at the *thanas*, or be detained at the *thanas*, or sent into the Magistrate's Court, unless they appear as prosecutors, be made verbally; and they shall not, unless on account of misconduct, or under the special orders of the Magistrates.

Seventh.—*Darogas* of police shall invariably ascertain and report, when making inquiries on the occasion of any robbery, burglary or theft, the conduct of the village-watchmen; and whether they were present at their post, when the offence was perpetrated; if not, the cause of their absence and whether there may be reason to believe that they were themselves concerned in, or connived at, the commission of the crime.

In the event of any neglect or suspicion of criminality attaching to a village watchman, the *daroga* shall either send the individual to the Magistrate, with a separate report of the grounds of the charge exhibited against him, and evidence to establish the same, or shall forward a report in the first instance and wait the instructions of the Magistrate as to the nature of the alleged offence may dictate.

In the event of any gross neglect or misconduct in the discharge of his duty as a police-officer being established against a village watchman, he shall be liable to dismission from his station by order of the Magistrate, independently of any punishment to which he may be subject for specific acts of criminality under the laws and Regulations in force.

Eighth.—The *darogas* or the police-officers are prohibited, under penalty of dismission from office, from employing the village watchmen on their private concerns, or on any duties unconnected with the police.

Ninth.—In those towns and villages where the *darogas* of the *mufassal* police jurisdiction, or the officers of outposts, may be stationed, the duties of watching and patrolling shall be performed conjointly by the regular police-officers and the village watchmen; and private establishments, entertained by individuals for guarding their habitations, shops or warehouses, shall also afford their assistance, and be considered subject, performance

(Secs. 22-29.)

in the performance of this duty, to the orders of the police *darogas* of the station.

Tenth.—On the occurrence of a gang or highway robbery, or any robbery by open violence, murder, burglary or theft, attended with wounding, or any other heinous offence, attended with a violent breach of the peace, the village watchmen shall, to the utmost of their ability, resist and endeavour to apprehend the offenders, and shall require the headmen of the village to collect the inhabitants and to oppose and seize the criminals, or to pursue them if they have fled;

and it shall be incumbent on the inhabitants of the villages through which, or near to which, the pursuit may lie, to afford, on the requisition of the village-watchmen or other police-officer, every practicable assistance towards the apprehension of the robbers or other offenders, and recovery of any property stolen or plundered by them, continuing the pursuit from village to village.

* * * * *

22 to 26. (Concurrent jurisdiction of police *darogas*; prosecutors and witnesses; summons, arrest and bail; resistance or evasion of criminal process.) Rep. by Act IV of 1862.

27. (Distraint for arrears of land-rent.) Rep. by the Bengal Rent Act, 1859 (10 of 1859).

28. (Abkari.) Rep. by the Repealing Act, 1876 (12 of 1876).

Execution of Criminal Process in the [2] (Opium Department); and Duties of Darogas relating to [3] (that Department).

29. First.—In all bailable cases, where it may be necessary, under the provisions of this Regulation, to summon or apprehend any * * * [4] officer or person * * * [5] employed in the * * * [6] Opium Department, the *darogas* of police shall transmit the summons or war-

Security for
appearance of
persons
employed
under Opium

[1] The concluding sentence of s. 21 (10), declaring liability to penalty, was repealed by the Repealing Act, 1876 (12 of 1876), and is omitted.
[2] The words "Opium Department," in the heading prefixed to s. 29, were substituted for the words "Commercial, Salt and Opium Departments" by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 336.
[3] The words "that Department" were substituted for the words "those Departments" by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 336.
[4] The words "weaver" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876).
[5] The words "engaged in the provision of the Company's investment or", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.
[6] The words "Commercial, Salt or" are omitted, as having been repealed—the word "Commercial" by the Repealing Act, 1876 (12 of 1876), and the other words by the Repealing Act, 1874 (16 of 1874).

(Sec. 29.)

* * * [1] Opium Department, for an offence that is not bailable, and provisions of this Regulation for apprehending the person so charged, the warrant for his apprehension shall require him to attend immediately in person, and shall be executed in the same manner as upon persons not so employed.

But the *daroga*, after securing the offender, is to give notice of his apprehension to the * * * [2] Opium Agent, or to the head officer of the nearest *arany*, *kothi* or *chaulki*, as the case may be.

Fifth to Eighth.—(*Darogas* to assist in seizure of illicit salt, to give notice of illicit importations, etc., not to seize in first instance of their own authority; penalty for unwarranted seizure.) *Rep. by the Inland Customs Act, 1875 (8 of 1875).*

Ninth.—All officers of police are strictly enjoined, under pain of dismissal from office, to assist in suppressing the illicit cultivation, manufacture, sale, purchase, importation, transportation or possession of opium * * * [3].

Tenth and Eleventh.—(*Daroga* to report illegal cultivation of poppy; to take security for offender's appearance.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Twelfth.—Any police *daroga* who shall knowingly permit the cultivation of the poppy within his jurisdiction, or who shall be convicted of conniving in any respect at the illicit cultivation of the poppy, shall, besides being liable to dismissal from office for neglect of duty, be further subject, on conviction before the Magistrate of the *zila*, to the payment of the fine stated in [1] [Act 13 of 1857, section 21,] for whatever quantity of land shall have been so illegally cultivated within his jurisdiction with his knowledge or connivance; and the fine, if not duly paid, shall be commutable to imprisonment for a period not exceeding six months.

[1] The words "Commercial, Salt or," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.
[2] The words "Commercial Resident, Salt or" are omitted, as having been repealed—the words "Commercial Resident" by the Repealing Act, 1874 (16 of 1874), and the other words by the Repealing Act, 1876 (12 of 1876).
[3] The words and figures "as required by the provisions of Regulation 13, 1816, which are herein recapitulated for their information and guidance," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.
[4] These words and figures in square brackets in s. 29 (12) were substituted for the words and figures "section 31, Regulation 13, 1816," by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 336. Act 13 of 1857 (the Opium Act, 1857) is printed *post*, p. 382.

Form No. 1.

Page 1 of 1

Form No. 2 (Rev. 3-5-59)

Repealed by Bengal Regulation 7 of 1822.

Form No. 1-100-5.

Referred by the Department of the Interior to the

Page 19

Register of Large Houses, and Agricultural Use of Village.

Nationality	Place of Birth	Date of Birth	Place of Birth	Date of Birth	Place of Birth	Date of Birth	Place of Birth	Date of Birth
American	New York	1900	New York	1900	New York	1900	New York	1900
American	New York	1900	New York	1900	New York	1900	New York	1900
American	New York	1900	New York	1900	New York	1900	New York	1900
American	New York	1900	New York	1900	New York	1900	New York	1900
American	New York	1900	New York	1900	New York	1900	New York	1900
American	New York	1900	New York	1900	New York	1900	New York	1900
American	New York	1900	New York	1900	New York	1900	New York	1900
American	New York	1900	New York	1900	New York	1900	New York	1900
American	New York	1900	New York	1900	New York	1900	New York	1900
American	New York	1900	New York	1900	New York	1900	New York	1900

Form No. 7.

Reprinted by the Repeating and Lending Act, 1891 (12 of 1891).

Form No. 8.

Repealed by Bengal Regulation 7 of 1829.

FORMS Nos. 9 TO 12.

Repealed by the Repealing and Amending Act, 1891 (12 of 1891).

[1] Form No. 6 is referred to in s. 21 (1), *ante*, p. 166.

(Forms.)

Form No. 13 [1]

RECOGNIZANCE TO BE TAKEN FROM A WITNESS.

WHEREAS I

, inhabitant of _____, have been named as a witness in the case of _____, on or before the _____, I hereby engage to appear before the Magistrate of the _____ (or city) of _____, as any expense that may be incurred in consequence of my non attendance, for compelling my appearance, in this I will not fail. Dated (according to the current era) _____

Form No 14

Repealed by Bengal Regulation 7 of 1829.

Forms Nos 15 to 21.

Repealed by the Repealing and Amending Act, 1891 (13 of 1891).

[1] Form No 13 is referred to in s 23 (3), ante, p 169.



BENGAL REGULATION 3 OF 1818.

(THE BENGAL STATE PRISONERS REGULATION, 1818) [1]

(7th April, 1818)

A Regulation for the confinement of State Prisoners.

1. Whereas reasons of State, embracing the due maintenance of the Preamble

preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unavoidable or improper, and whereas it is fit that, in every case of the nature herein referred to the determination to be taken should proceed immediately from the authority of the Governor General in Council,

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such

given by the Amending Act, 1897 (5 of 1897),

passed for the whole of the former Provinces

It has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed in General Acts, 1868 78, Ed 1909, p 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Porahat Estate, in the district of Singhbhum, in the Chota Nagpur Division—see Vol. IV, Part III

It is in force in the following de regulated tracts in Bihar and Orissa, namely—the Angul District, see Vol. IV, Part IV, and the South Parganas—see Vol. IV, Part IV, Acts, 1834 67, Ed 1909, p 146), to be in force within the local limits of the jurisdiction of the High Court.

Penalties—For penalties for allowing a State prisoner to escape, for aiding or assisting him to escape, for rescuing, harbouring or concealing him, and for resisting his capture, see the Indian Penal Code (Act 45 of 1860), ss. 128 to 130, in General Acts, 1834 67, Ed 1909, p 280

Removal of State Prisoners—For power of the Governor General in Council to remove State prisoners from one place to another, see the State Prisoners Act, 1853 (3 of 1853) s 5 in General Acts, 1834 67, Ed 1909, p 247

The High Courts *habeas corpus* section in the Code of Criminal Procedure 1853 (Act 5 of 1853), does not apply to persons detained under this Regulation—see s. 491 (3) in General Acts, 1838 1903, Ed 1909, p 191

1818 3 of 1818

(THE BENGAL STATE PRISONERS REGULATION, 1818) [1]

(27th April, 1878)

A Regulation for the confinement of State Prisoners.

1. Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasional render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be *unadvisable or improper*, and whereas it is fit that, in every case of the nature herein referred to the determination to be taken should proceed immediately from the authority of the Governor General in Council, and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such

Sch
 of 1
 given by the Amending Act, 1897 (5 of 1897),
 passed for the whole of the former Provinces
 a 1, post, p 176
 Local Extent Act, 1874 (15 of 1874), s 6 (printed
 458) to be in force throughout the former Provinces
 dued Districts. S. 176 of 1874 (15 of 1874) of

Chota Nagpur Division—see Vol IV, Part III

It has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 5 to the Kolman, in the Singhbhum district, in the Chota Nagpur Division—see Vol. IV, Part III

It has been declared by the State Prisoners Act, 1858 (3 of 1858), s. 2 (in General Acts 1854-67, Ed 1899, p. 146), to be in force within the local limits of the jurisdiction of the High Court.

RECAPTURE OF STATE PRISONERS—For power of the Governor General in Council to remove State prisoners from one place to another, see the State Prisoners Act, 1858 (s 6 of 1858) s 5 in General Acts, 1834-67, ED 1909 p 147
The High Courts *ad hoc* sections in the Code of Criminal Procedure 1898 (Act 6 of 1898), does not apply to persons detained under this Reclamation—see s 491 (3) of 1898 in General Acts, 1834-1903, ED 1909 p 191

determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of *zamindars*, *talukdars* and others situated within the territories dependent on the Presidency of Fort William^[2] should be attached and placed under the temporary management of the Revenue Authorities without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government; the Vice-President in Council has enacted the following rules, which are to take effect, throughout the provinces immediately subject to the Presidency of Fort William,^[1] from the date on which they may be promulgated.

2. *First*.—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Second.—The warrant of commitment shall be in the following form:—

To the^[2] (here insert the officer's designation).

Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that (here insert the State prisoner's name) shall be placed under personal restraint at (here insert the name

[1] This includes the present Province of Bihar and Orissa except the District of Sambalpur.
[2] As to the officers to whom warrants may be addressed, see the State Prisoners Act, 1850 (24 of 1850), in General Acts, 1834-67, Ed. 1908, p. 80, and the Prisoners Act, 1871 (6 of 1871), s. 10, in General Acts, 1868-78, Ed. 1909, p. 169.

(Secs. 3-5.)

of the place), you are hereby required and commanded, in pursuance of that determination, to receive the person above-named into your custody, and to deal with him in conformity to the orders of the Governor General in Council and the provisions of Regulation 3 of 1818.

“Fort William, the

“By order of the Governor General in Council,

“A. B., Chief Secy. to Govt.”

Third.—The warrant of commitment shall be sufficient authority for Authority of the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William. [1]

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a custody of report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

4. *First.*—When any State prisoner is in the custody of a Zila Magistrate, the judges * * * [2] are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

Second.—When any State prisoner is placed in the custody of any public officer not being a Zila * * * [3] Magistrate the Governor General in Council will instruct either the Zila * * * [2] Magistrate, or the judge * * * [3] or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods and to submit a report to Government regarding the health and treatment of such prisoner.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

[1] This includes the present Province of Bihar and Orissa except the District of Sambalpur.
[2] The words “or City,” which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.
[3] The words “of Circuit,” which were repealed by the Amending Act, 1874 (16 of 1874), are omitted.
VOL. I.

(Secs. 6-11.)

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

8. (Applicability of ss. 3 to 7 to persons now confined as State prisoners.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any *zamindar*, *jagirdar*, *talukdar* or other person, without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, [1] [and] * * * [2] to the *Sadar Divani Adalat* and *Nizamat Adalat*.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government of attached estates.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the

Third.—In the cases mentioned in the preceding clause the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Government to arrange for satisfaction of decrees.

Rules as to cases where Government is to operate, and that the management of the

[1] This word "and," in s. 9, was inserted by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Bd. 1909, p. 336. [2] The words "to the Provincial Court of Appeal and Circuit, and," which were repealed by the Repealing Act 1874 (16 of 1874), are omitted.

(Sec. 11.)

estate can be committed to the hands of the proprietor without public orders release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

BENGAL REGULATION 1 OF 1819

(THE BENGAL KANUNGOS AND PATWARIS REGULATION, 1819) [1]

(5th February, 1819)

A Regulation * * * [3] for re-establishing Kanungos and reforming the office of *Patwaris* throughout the Province of Bengal, and for explaining and modifying certain parts of Regulation 12, 1817 [3]

1 to 3. (Preamble, controlling Revenue authorities in Dinajpur, Rangpur and Gorakhpur) Rep by the Repealing Act, 1873 (12 of 1873)

4. *First*—Kanungos shall be appointed throughout the Province of Appointment of Kanungos, of Rangpur and Gorakhpur, as are prescribed in Regulation 5, 1816 [4] in regard to the district of Bengal. Cuttack, the *pargana* of Pataspur and its dependencies, and all the rules continued in the Regulation aforesaid are hereby extended generally to the Province of Bengal

Second—The provisions of Regulation 12, 1817, [3] are in like manner hereby extended to the several districts of the said Province to which they have not yet been applied

Third—Provided, however, that in cases in which it may not appear advisable, from whatever cause, to leave the selection and nomination of the Kanungos to the Collector of the district, it shall be competent to the [3] [Local Government] to appoint such other officer specially to perform that duty, as [3] [it] may judge expedient, and the officer so appointed shall have and exercise, during such period as the [3] [Local

[1] Short Title.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see post, p. 688
Local Entry.—This Regulation extends to the whole of the former Province of Bengal—see s. 4 (1), but it may be suspended in any *malik*—see s. 4 (f) It is in force in the Southern Parganas, see Vol. IV, District of Angul by the Angul Laws Reg. [2] The words 'for replacing the

put under the Board of

nted ante, p. 147

the original text, are to be read and therefor—see the Amending Act,

1903 (1 of 1903), Sch. II post, p. 704

[2] The words 'he in the original text is to be read as if the word it' were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, post, p. 704

(Sec. 5.)

Government] may direct, the same powers as are vested generally in Collectors of land-revenue under the provisions of Regulation 5, 1816,[¹ and Regulation 12, 1817.[²

But nothing herein contained shall be construed to preclude the person holding permanently the office of Collector in such district from discharging the ordinary duties of his situation under the general rules and Regulations applicable to that branch of the public service.

Fourth.—Provided further that it shall be competent to the [³]Local Government] to suspend the operation of the rules contained in this or any former Regulation, regarding *kanungos* and *patwars*, any *maddals* in which the establishment of such officers, as prescribed in those rules, may appear to be inexpedient.

Fifth.—Provided likewise that it shall be competent to the Board of Revenue or other authority exercising the powers of that Board [⁴] to make such alteration in the duties to be performed by *kanungos* as local circumstances shall suggest * * * * *

Sixth.—Provided also that it shall be competent to the Board of Revenue [⁵] to suspend by proclamation the operation of the rules of Regulation 12, 1817,[²] in the districts of Chittagong * * * * * and in any other parts of the country in which individual estates may generally be of inconsiderable extent, until they shall have determined, under the discretion vested in them by sections 3, 18 and 33 of that Regulation, the number of *patwars* to be appointed or retained, the mode in which they are to be remunerated and the *maddals* to be permanently exempted from its general operation.

5. In all cases in which any village or villages, or any lands whatsoever the accounts of which may be kept by a single *patwar*, shall be held by two or more persons under distinct engagements with Government, it shall be competent to the Collector, [⁷] with the approval of the

[¹] The Bengal Kanungos Regulation, 1816. It is printed *ante*, p. 147.
 [²] The Bengal Patwari Regulation, 1817. It is printed *ante*, p. 153.
 [³] The words "Governor General in Council" in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 704.
 [⁴] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.
 [⁵] The words and figures "anything in section 7, Regulation 4 of 1808, and other corresponding enactments, to the contrary, notwithstanding," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.
 [⁶] The words "and Sylhet," which are repealed by the Amending Act, 1903 (1 of 1903), are omitted.
 [⁷] As to the exercise of functions of the Collector under this Regulation by other officers, see s. 4 (5), *ante*, and the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

Board of Revenue may alter duties of *kanungos*.
 Power to suspend operation of rules regarding *kanungos* and *patwars*.
 And suspend operation of Regulation 12, 1817, in certain places.
 Collector may nominate and appoint *patwars* in certain cases

(Secs. 6-7.)

Board of Revenue[1] or other authority exercising the powers of that Board,[1] to assume the direct nomination and appointment of such *patawar*, with or without a reference to the proprietors.

But in all such cases the Collector[2] shall deviate as little as possible from established usage, and shall be careful to consult the inclinations, and maintain the interests, of all persons connected with the *mahals* in question

8. In explanation of section 11, Regulation 12, 1817,[1] it is hereby explained that, if any proprietor or farmer of land shall refuse or omit to furnish the statement required by section 4[1] of that Regulation within the period therein prescribed, or at any subsequent period, when called upon to do so by the Collector or other officer exercising the powers of Collector,[2] it shall be competent to the Collector[2] or other officer aforesaid, with the approval of the Board of Revenue or other authority exercising the powers of that Board,[1] to levy a daily fine upon such proprietor or farmer, until the statement required be furnished, to such amount as may appear proper, with reference to the circumstances of the case, and to the condition in life of the offender

7. The penalties prescribed in section 13, Regulation 12, 1817,[1] for the illegal removal of a *patawar* from office, by a *zamindar* or other proprietor or farmer of land, are hereby declared applicable to all persons whatsoever who may, without due authority, remove from office any *patawar* duly constituted or appointed, or who may oppose a *patawar* so appointed or constituted, in the performance of his duties, or who may prevent his performing them, or who may resist or evade the entry of a *patawar*, when duly appointed into the possession of his office.

[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act I of 1913), s 3 in Vol III of this Code

[2] As to the exercise of functions of the Collector under this Regulation by other officers, see s 4 (3), ante, and the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s 35, post, p 267

[1] The Bengal Patawaris Regulation, 1817 Section 11 is printed on p 155, ante

[2] Section 4 of Ben Reg 12 of 1817 was repealed by the Repealing Act, 1874 (16 of 1874)

[3] The Bengal Patawaris Regulation, 1817 Section 13 is printed on p 155, ante

(Sec. 5.)

Government] may direct, the same powers as are vested generally in Collectors of land-revenue under the provisions of Regulation 5, 1816,[1] and Regulation 12, 1817.[2]

But nothing herein contained shall be construed to preclude the person holding permanently the office of Collector in such district from discharging the ordinary duties of his situation under the general rules and Regulations applicable to that branch of the public service.

Fourth.—Provided further that it shall be competent to the [Local Government] to suspend the operation of the rules contained in this or any former Regulation, regarding *kanungos* and *patwaris*, within any *mahals* in which the establishment of such officers, as prescribed in those rules, may appear to be inexpedient.

Fifth.—Provided likewise that it shall be competent to the Board of Revenue or other authority exercising the powers of that Board[1] to make such alteration in the duties to be performed by *kanungos* as local circumstances shall suggest * * * * *

Sixth.—Provided also that it shall be competent to the Board of Revenue[4] to suspend by proclamation the operation of the rules of Regulation 12, 1817,[2] in the districts of Chittagong * * * * * and in any other parts of the country in which individual estates may generally be of considerable extent, until they shall have determined, under the discretion vested in them by sections 3, 18 and 33 of that Regulation, the number of *patwaris* to be appointed or retained, the mode in which they are to be remunerated and the *mahals* to be permanently exempted from its general operation.

5. In all cases in which any village or villages, or any lands whatsoever the accounts of which may be kept by a single *patwari*, shall be held by two or more persons under distinct engagements with Government, it shall be competent to the Collector,[7] with the approval of the Collector may nominate and appoint *patwaris* in certain cases

[1] The Bengal Kanungos Regulation, 1816. It is printed *ante*, p. 147.
[2] The words "Governor General in Council" in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 704.
[3] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act I of 1913), s. 3 in Vol. III of this Code.
[4] The words and figures "anything in section 7, Regulation 4 of 1808, and other corresponding enactments, to the contrary, notwithstanding," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.
[5] The words "and Sylhet," which are repealed by the Amending Act, 1903 (1 of 1903), are omitted.
[6] As to the exercise of functions of the Collector under this Regulation by other officers, see s. 4 (5), *ante*, p. 267.
[7] As to the exercise of functions of the Collector under this Regulation by other officers, see s. 4 (5), *ante*, p. 267.

(Secs 6 7)

Board of Revenue[1] or other authority exercising the powers of that Board,[1] to assume the direct nomination and appointment of such *patawar*, with or without a reference to the proprietors

But in all such cases the Collector[2] shall deviate as little as possible from established usage, and shall be careful to consult the inclinations, and maintain the interests, of all persons connected with the *mahals* in question

6. In explanation of section 11, Regulation 12, 1817,[3] it is hereby declared and enacted that, if any proprietor or farmer of land shall refuse or omit to furnish the statement required by section 4[4] of that Regulation within the period therein prescribed, or at any subsequent period, when called upon to do so by the Collector or other officer exercising the powers of Collector,[2] it shall be competent to the Collector[2] or other officer aforesaid, with the approval of the Board of Revenue or other authority exercising the powers of that Board,[1] to levy a daily fine upon such proprietor or farmer, until the statement required be furnished, to such amount as may appear proper, with reference to the circumstances of the case, and to the condition in life of the offender

7. The penalties prescribed in section 13, Regulation 12, 1817,[3] for the illegal removal of a *patawar* from office, by a *zamindar* or other proprietor or farmer of land, are hereby declared applicable to all persons whatsoever who may, without due authority, remove from office any *patawar* duly constituted or appointed, or who may oppose a *patawar* so appointed or constituted, in the performance of his duties, or who may prevent his performing them, or who may resist or evade the entry of a *patawar*, when duly appointed into the possession of his office

[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act I of 1913), s 3 in Vol III of this Code
[2] As to the exercise of functions of the Collector under this Regulation by other officers, see s 4 (5), ante, and the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s 35, post, p 267
[3] The Bengal Patawars Regulation, 1817 Section 11 is printed on p 155, ante
[4] Section 4 of Ben Reg 12 of 1817 was repealed by the Repealing Act, 1874 (16 of 1874)
[5] The Bengal Patawars Regulation, 1817 Section 13 is printed on p 155, ante

Penalty for
unauthorized
removal etc,
of *patawar*

Explanation
of section 11,
Regulation
12, 1817

BENGAL REGULATION 2 OF 1819

CONTENTS.

Section	1	Preamble
2	(Repealed)	
3	First—Lands not included in decennial settlement, etc, liable to assessment, except—Lands held free of assessment under valid title	
	Proviso	
	Second—Same principle applicable to <i>chats</i> and <i>alluvion lands</i>	
	Third—Also to lands included within particular <i>tahaks</i>	
	Proviso	
4	Application of existing rules to <i>grants</i> for holding lands under <i>mukdars</i> or other tenures	
	Proviso	
5	First—Power to direct investigation regarding liability of lands to be assessed	
	Second—Notice to party	
	Third—Or to his agent, if accredited agent reside at <i>adar</i> station	
	Fourth—Notice on principal to be served through <i>mazir</i> by single peon	
	Fifth—If acknowledgment be refused, tender of notice sufficient service	
	Sixth—Contents of notice	
6	First—If notice cannot be served, proclamation to be issued	
	Second— <i>Nazir's</i> return how made	
	If party does not appear, or refuses to answer, case to be investigated	
7	What inquiry to be made	
8	Collector with sanction of Board may cause survey or measurement	
9	Collector may summon <i>patwars</i> , and require accounts and examine on oath.	
10	And may require attendance of person claiming land, with his accounts	
11	First—Notice to such person	
	Second—(Repealed)	
12	Penalties on <i>patwars</i> neglecting to produce accounts, falsifying them or giving false evidence.	
13	First—Lands may be attached, if holders neglect to furnish accounts	
	Inquiry in such cases	
	Second—Accounts not furnished to Revenue authorities not afterwards to be received in evidence in suits to contest their decision	
	Exception	
	Third—Fines for non attendance of proprietor or agent, or for omission to furnish accounts	
14	Penalties for resistance of process	
	Proviso	
15	Procedure when parties attend and produce <i>tille-deeds</i>	
	Produce	
	Government to be examined	
16	Common witnesses and administrators oath	
20		
21	First—Procedure of Board on receipt of Collector's proceedings	
	Second—Final <i>rubakars</i>	
	Third—In what cases decision of Boards final	
	Fourth—If land declared liable to assessment, Collector to fix assessment	
22	First—When party may be left in possession of land	
	Proviso	
	Second—Procedure of Collector if party do not furnish full security.	
	Third—Court may determine on sufficiency of security tendered	
	Fourth—Amount of security how regulated.	
	Fifth—Security in case of <i>mukdars</i>	

SECTION.

23. Final assessment.

24. First.—Limitation of suits in Civil Courts.

Proviso.

25. Second.—(Repealed.)

26. First.—Appeal from Zila to Sadar Court.

27. Second.—Procedure on such appeals.

(Repealed.)

28. First.—Validity of *farmans*, *sannads* or grants to be carefully ascertained.

29. Second.—Such deeds not to be received unless registered.

30. (Repealed.)

31. First.—Regulation not to affect right of proprietors to waste-land guaranteed at permanent settlement.

Second.—Nor to warrant claim to additional revenue from lands permanently assessed on plea of error or fraud.

Exception.

BENGAL REGULATION 2 OF 1819

[THE BENGAL LAND REVENUE ASSESSMENT (REVISED LANDS) REGULATION, 1819] [1]

(12th February, 1819)

A Regulation for modifying the provisions contained in the existing Regulations, regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.

1. The rules contained in Regulations 19[7] and 37,[7] 1793, Preamble relative to the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and the corresponding provisions enacted in subsequent years, having been found inadequate to secure the just rights of Government, have from time to time been partially repealed or modified

Those rules, however, are still in force within several of the districts subordinate to this Presidency, and the Regulations by which they have in other districts been superseded appear to be in several respects defective

It further appears to be necessary, in order to obviate all misapprehension on the part of the public officers, or of individuals, to declare generally the right of Government to assess all lands which, at the period of the decennial settlement, were not included within the limit

[1] *Short Title*—This short title was given by the Amending Act, 1903 (1 of 1903).

Local Extent—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s 1, *post*, p 188 It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed in General Acts, 1868 78, Bd 1909 p 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874) s 3, to be in force in the districts of Hazaribagh, Ranchi, Palamanu and Manbhum, and Fargana Dhaibhumi, in the district of Singhbhum, in the Chota Nagpur Division—see Vol IV, Part III The Regulation is in force in the South Parganas—see Vol IV, Part IV, but it is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p 664

1819 is modified by the Bengal Revenue free Lands (non Badshahi Grants) Regulation, 1793 p 307
printed ante p 49
 [1] The Bengal Revenue free Lands (Badshahi Grants) Regulation 1793 It is printed *ante*, p 67

(Sees. 2-3.)

of an estate for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the above period, nor lands held free of assessment under a valid and legal title, and at the same time formally to renounce all claim on the part of Government to additional revenue from lands which were included within the limits of estates for which a permanent settlement has been concluded, at the period when such settlement was so concluded, whether on the plea of error or fraud, or on any pretext whatever, saving, of course, *mahals* expressly excluded from the operation of the settlement.

With the view, therefore, of establishing, on proper principles, one uniform course of proceeding in resuming the revenue of lands liable to assessment, so that the dues of Government may be secured without infringement of the just rights of individuals, the following rules have been enacted to be in force from the date of their promulgation throughout the Provinces immediately subordinate to the Presidency of Fort William. [1]

2. (*Repeals*.) *Rep. by the Repealing Act, 1874 (16 of 1874).*

3. *First*.—It is hereby declared and enacted that all lands which, at the period of the decennial settlement, were not included within the limits of any *pargana*, *manzu* or other division of estates for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the period above referred to, nor lands held free of assessment under a valid and legal title of the nature specified in Regulations 19[2] and 37, [3] 1793, and in the corresponding Regulations subsequently enacted, are and shall be considered liable to assessment in the same manner as other unsettled *mahals*, and the revenue assessed on all such lands, whether exceeding one hundred *bighas* or otherwise, shall belong to Government:

Provided.

Provided, however, that nothing in the above rule shall be construed to affect the rights reserved to *zamindars*, *talukdars* and other proprietors of estates with whom a permanent settlement has been concluded, to the exclusive enjoyment of the rent assessed on lands held on an invalid tenure, free of assessment, within the limits of their respective estates and *taluks*, and of which the extent may not exceed one hundred *bighas* if in [*Bengal*,] Bihar or Orissa * * * [4]

[1] This includes the present Province of Bihar and Orissa except the district of Sambalpur.
[2] The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. It is printed ante, p. 49.
[3] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed ante, p. 67.
[4] The words "and fifty *bighas* if within the Province of Benares," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Sec. 4.)

Second.—The foregoing principles shall be deemed applicable not only to tracts of land such as are described to have been brought into cultivation in the Sundarbans, but to all *chars* and islands formed since the period of the decennial settlement, and generally to all lands gained by alluvion or dereliction since that period, whether from an intrusion of the sea, an alteration in the course of rivers or the gradual accession of soil on their banks.]

Third.—The same principle shall likewise be deemed applicable to all land which, though included at the period of the permanent settlement within the limits of *taluks* held by individuals under special *pattas* from the Collector, such as the *patibadda* and *jangal-bari taluks* in the districts of the 24-Parganas and Jessore, may not have been permanently assessed at the above-mentioned period :

Provided, however, that in respect to such lands, if in the possession of the original *patta*-holder, or his legal representative, the conditions of the *patta* in regard to the assessment of the land included within the limits specified in that instrument shall be strictly maintained.

4. The several rules prescribed in Regulations 19[7] and 37[7] of 1793 and 12 of 1805[7] for determining the validity of grants for holding lands exempt from the payment of public revenue, are hereby declared applicable to grants for holding lands under *mukdars* or other tenures limiting the demand of Government :

Provided, however, that nothing in this section shall be construed to affect the rules contained in Regulation 8, 1793[6], relative to the assessment of lands held under valid grants or leases of the above nature

[75. First.—Whenever a Collector[7] of revenue or other officer[7] exercising the powers of Collector shall have reason to believe that any by alluvion or dereliction, printed ante, p. 49
[7] The Bengal Revenue Free Lands (Badshahi Grants) Regulation, 1793. It is printed ante, p. 67
[7] The words and figures "and Regulations 41 and 42 of 1795, Regulations 31 and 36 of 1803, Regulations 8," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted
[7] The Cuttack Land revenue Regulation, 1805 It is printed ante, p. 105
[7] The Bengal Decennial Settlement Regulation, 1793 It is printed ante, p. 31.
[7] The words and figures "not to alter the provisions contained in Regulation 1, 1815, by which tenures of that description are declared liable to assessment on the death of the grantees" which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.
[7] Section 5 has been modified by the Bengal Land revenue Settlement Regulation, 1825 (9 of 1825), s. 5, post, p. 292
[7] As to the exercise of functions of Collectors by other officers, see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s. 35, post, p. 25.

(Sec. 5.)

lands lying within the sphere of his official control are liable to assessment, either as being held under an invalid tenure free of assessment, or at an inadequate *jama*, or as being liable to assessment on the principles stated in section 3 of this Regulation, he shall report the circumstances to the Board of Revenue^[1] or other authority exercising the powers of that Board,^[1] who, should they be of opinion that proper grounds exist for inquiry, shall direct the Collector^[2] or other officer^[2] aforesaid to enter on an investigation of the case in the manner hereafter mentioned.

regarding
liability of
lands to be
assessed.

Notice to
party.

Second.—The Collector,^[2] on receiving the authority of the Board of Revenue,^[1] shall call the party before him by a notice stating the demand of Government on the lands, and requiring him to attend either in person or by *wakil*, within the period of one month, and to produce all *sands* or other writings in virtue of which he may possess the lands, or under which they may have been, or may be, claimed to be held free of assessment, or at a fixed *jama*.

Third.—If the persons whose lands it is proposed to assess have an accredited agent at the *sadar* station, with general powers to act for his principal, the notice to be issued under the preceding clause shall be tendered to such agent, to be communicated by him to his principal, and the agent's acknowledgment to be endorsed upon it shall be accepted as a sufficient service of it, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by a *chaprasi* or peon of the Collector.

Or to his
agent if
accredited
agent reside
at *sadar*
station.

Fourth.—If the person, the revenue of whose lands it is proposed to resume, shall not have an accredited agent at the *sadar* station of the description above-mentioned, or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the Collectorship, it shall be served on him through the *nazir* of the Collector by a single *chaprasi* or peon, who shall require the acknowledgment of the party to be endorsed upon it, or, if he be absent from his usual place of residence, the acknowledgment of his principal agent, or of any person acting for him during his absence.

Notice on
principal to
be served
through *nazir*
by single
peon.

If the party be resident within the jurisdiction of any other Collector-ship than that in which the lands proposed to be assessed are situated, the notice shall be transmitted to the Collector^[2] of the district in which the party may reside, to be served in the manner above directed.

Notice how
served if
party reside
in another
jurisdiction.

[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

(Sec 6)

If the party be neither resident within the Collectorship in which the lands in question may be situated, nor in any other Collectorship, the notice shall be served upon his agent or representative in charge of the lands.

Fifth—Provided always that, if any party or his agent in charge of his land, on whom a notice may be served in the manner above prescribed, shall refuse to acknowledge the receipt of it when required by the person serving it, the tender of the notice to such party or his agent shall be taken for a sufficient service, such tender to be proved by the evidence of two persons residing on the lands or in the nearest village

Sixth—The Collector^[7] shall, in the notice summoning the party, warn him that, if he withhold any writings of the nature specified in the second clause of this section within the period prescribed, they will not afterwards be received unless he shall show good and sufficient cause for not producing them and shall assign such cause on his appearing before him.

[7]8. *First*—If the holder of such lands to whom a notice may have been issued as directed in the preceding section shall abscond, or is not after diligent search to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the Collector or other officer^[7] exercising the power of

Collector, on receiving the *naizir's* return to this effect, shall issue a proclamation, to be affixed in some conspicuous part of his *cutcherry*

The proclamation shall be written^[7] in the vernacular of the district, and it shall contain a copy of the former notice and a further notification to the party that, if he shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the proclamation may be fixed up), the Collector^[7] will proceed, without further notice, to hold the inquiry *ex parte*

The Collector or other officer^[7] exercising the power of Collector shall likewise order a copy of the proclamation and notice to be fixed up, with all practicable despatch on the outer door of the house in which the holder of the lands may have usually dwelt, or in some conspicuous place in the chief village within, or in the neighbourhood of, the lands proposed to be assessed

[7] As to the exercise of functions of Collectors by other officers, see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s. 35 *post*, p. 267
[7] Section 6 has been modified by the Bengal Land revenue Settlement Regulation, 1825 (6 of 1825), s. 5, *post*, p. 232
[7] These words in square brackets in s. 6 were substituted for the original words by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-91, Ed. 1909, p. 336

(Secs. 7-9.)

Second.—The *nazir* shall return the order with an endorsement stating at what times and places the proclamation may have been fixed up.

Nazir's
return how
made.

The return of the *nazir* shall be filed with the Collector's^[1] proceedings in the case.

If party does
not appear,
or if a party who may have been served with a notice shall not appear within the time therein limited, or if, having appeared, he shall refuse to give answer, the Collector^[1] shall proceed to investigate and decide upon the case in the same manner as if the party had appeared, answered and entered into proof.

What inquiry
to be made.

7. In cases of land supposed to be liable to assessment under the provisions of section 3 of this Regulation, the Collector or other officer^[1] exercising the powers of Collector shall institute a full and particular inquiry into the circumstances and condition of the land in question at the period of the decennial settlement, and, in cases of alluvion land, into the period of its formation.

Collector
with sanction
of Board may
cause survey
or
measurement

[2] 8. When an inquiry in regard to land of the nature of that described in the foregoing section shall have been authorized, it shall be competent to the Collector,^[1] with the sanction of the Board of Revenue or other authority exercising the powers of that Board,^[3] previously obtained, to cause a survey or measurement to be made of all such lands, and of the estate to which such lands may be alleged to belong.

Collector may
summon
patwari, and
require
accounts and
examine on
oath.

9. It shall likewise be competent to the Collector,^[1] in all cases of inquiry held under the provisions of this Regulation, to summon the *patwari*, *gumashta* or other person by whom the accounts relating to the lands proposed to be assessed, or to the estate to which the lands may be alleged to belong, are kept and to require him to produce all accounts relating to such lands or estate, and to examine him on oath^[4] to the truth of such accounts, and on any other matter relating to such accounts, or regarding such lands or estate, in the manner specified in section 22, Regulation 12 of 1817.^[5]

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.
[2] Section 8 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, printed *post*, p. 292.
[3] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.
[4] As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-78, Ed. 1909, p. 385.
[5] The Bengal Patwaris Regulation, 1817. S. 22 of the Regulation is printed *ante*, p. 157.

(Secs 10-12)

[7]10. It shall be further competent to the Collector[?] in such and may exercising the powers of that Board,[?] to require the person claiming person claiming to be proprietor or farmer of the lands proposed to be assessed, or of the estates to which they are alleged to belong, to attend either in person or by representative, and to produce all the accounts relating to such lands or estate within a reasonable period, not being less than one week.

[?]11. * [?] Whenever the Collector or person exercising the powers of Collector[?] shall require the attendance of any proprietor or farmer, or of any *patwar* or *gunashtia* or other officer for the purpose stated in the above section, he is to serve such proprietor or other person as aforesaid with a written notice under his official seal and signature, stating the purpose for which his attendance is required, the papers (if any) which he is to bring with him, and the period within which he is to attend

(12 of 1816).

Second (Mode of serving notice) Reg. by the Repealing Act, 1876

[?]12. If any *patwar*, *gunashtia* or other person by whom the accounts of lands are kept, and who may be summoned by a Collector[?] neglecting to produce his original accounts, shall neglect or omit to produce his original accounts, or to give his evidence regarding them, or shall intentionally and deliberately give a false deposition on oath before the Collector [?] or *Commissioner*, when summoned and examined as aforesaid, or shall alter, fabricate, falsify or mutilate the accounts relating to such lands, or to the estate to which such lands are stated to belong,[?] he shall be and be held liable to the pains and penalties specified in sections 23 * [?] and 27 of Regulation 12, 1817,[?] according as the provisions of one or other of those sections may be applicable to the offence committed by him.

[?] Section 10 has been modified by the Bengal Land revenue Settlement Regulation

1825 (9 of 1825), s. 5, post, p. 292

[?] As to the exercise of functions of Collectors by other officers, see the Bengal Land-

revenue Settlement Regulation 1822 (7 of 1822) s. 35, post, p. 267

[?] As to the exercise of functions of the Board of Revenue by other authorities see

O Act I of 1813), s. 3 in Vol. III of this Code

1822 (7 of 1822), s. 19 (2), post, p. 256, and modified by the Bengal Land revenue Settlement

Regulation, 1825 (9 of 1825), s. 5, post, p. 292

[?] The word "First" was repealed by the Repealing Act, 1876 (12 of 1876), and is

omitted

[?] Section 12 has been extended by the Bengal Land revenue Settlement Regulation,

1822 (7 of 1822), s. 19 (2), post, p. 256

[?] This word "he" in s. 12 was inserted by the Repealing and Amending Act, 1881

(12 of 1881), Sch. II—see General Acts, 1887 97, Ed 1903, p. 336

Act, 1881 (12 of 1881), are omitted

[?] The Bengal Patwaris Regulation, 1817 Ss. 23 and 27 are printed ante,

pp 158, 159

VOL I

(Sec. 13.)

[1] 13. *First.*—If the holder of any lands in regard to which the Collector^[2] shall have been authorized by the [Board of Revenue or other authority exercising the powers of that] Board^[3] to institute the inquiry described by section 7 of this Regulation shall refuse or neglect to furnish the accounts relating to such lands within the period specified in the Collector's^[2] requisition, the Board of Revenue or other authority exercising the powers of that Board^[3] shall be competent to direct the lands to be immediately attached, and the rents collected on account of Government, in the same manner as if the lands were the property of Government.

Lands may be attached, if holders neglect to furnish accounts.

Inquiry in such cases.

In such cases, however, it shall still be the duty of the Collector^[2] to make a full inquiry into the title of the holder of the lands, and to transmit his proceedings to the Board,^[3] who will decide whether the lands shall be deemed permanently liable to assessment.

Accounts not furnished to Revenue-authorities not afterwards received in evidence in suits to contest their decision. Exception.

Second.—Provided further that, if the holder of any lands assessed under the rules of this Regulation shall institute a suit in Court to contest the decision of the Revenue-authorities, and shall produce any accounts or documents besides such as he may have delivered to the Collector,^[2] the accounts or documents so produced shall not be received by the Court in evidence, nor shall they have any weight in the decision, any more than if they had never existed, unless he shall show good cause, to the satisfaction of the Court, for not having produced the said accounts or documents, and shall prove that he assigned such cause in answer to the Collector's^[2] requisition, or show good cause for not having done so.

Fines for non-attendance of proprietor or agent, or for omission to furnish accounts.

[4] *Third.*—Provided also that, if any proprietor or farmer shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector^[2] [or Commissioner,] by the time prescribed in the notice issued by the Collector^[2] [or Commissioner,] or small omit or refuse to furnish the accounts or documents required, and to show sufficient cause for such omission, the Board of Revenue or other authority exercising the powers of that Board,^[3] are authorized and empowered to impose upon him such daily fine,^[5] to be payable

[1] Section 13 has been modified by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, post, p. 292.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, post, p. 267.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[4] Clause *Third* of s. 13 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), post, p. 256.

[5] For power of Collector to impose a daily fine, see the Bengal Landholders' Attendance Act, 1848 (20 of 1848), post, p. 251.

(Secs 14-16)

daily, until he complies with the Collector's^[1] requisition, as they may think adequate to his situation and circumstances in life, reporting, however, the amount for the information of the^[2] Local Government. The fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue

[7] 14. If any *zammadar* or other person shall resist, or cause to be resisted, the attachment or measurement of lands which the Board of Revenue is empowered to attach or measure, he shall be liable to the process as is prescribed for the recovery of arrears of revenue.

Revenue[?] or other authority exercising the powers of that Board[?] shall have authorized the Collector[?] or Commissioner[?] to attach or measure under the provisions of this Regulation, or shall resist or cause to be resisted any process duly issued by the Collector[?] or Commissioner[?] to compel a *patwari*, *gunasahi* or other officer to produce his accounts, and to give his evidence respecting them under the provisions contained in section 8 of this Regulation, it shall be competent to the Board of Revenue[?] or other authority exercising the powers of that Board[?] on being satisfied that he is guilty of the charge, to adjudge the *zamindar* or other person so offending to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and of the offence which he may have committed, and to levy the fine in the mode prescribed for the recovery of arrears of revenue.

Provided, however, that, if the fine shall exceed five hundred rupees, *Proviso.*

the Board[?] shall submit a report of the case to the[?] Local Govern-
ment[?] and shall not proceed to levy the fine until they shall receive
authority from Government for that purpose

[§]15. When the party whose lands it may be proposed to assess Procedure when parties shall appear in conformity with the notice or summons, and shall deliver up his title deeds, the Collector^[7] shall give a receipt for them, and, after duly examining them, shall deliver to the party a statement of the

Grounds on which his land may appear liable to assessment, with copies, on plain paper, of all documents on which his opinion may be founded. The Collector^[r] shall then desire the party to deliver a written answer within seven days.

answer within seven days

16. It shall be the duty of the Collector or other officer exercising the Functions in respect of powers of Collector,] carefully to number, mark, date and sign all

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land

of 1922) & co., post, p 201

were substituted therefor—see the Amendments Act,

in Council in the original text, are to be read

ided by the Bengal Land revenue Settlement Regulation,

1835 (9 of 1835), s. 5, post, p. 282

(Secs. 17-20.)

documents produced by a *zamindar* or other person in possession of the lands proposed to be assessed in support of his claim to hold them free of assessment, or as parcel of an estate for which a permanent settlement shall have been concluded, and to insert in his proceedings the title and number of such documents, so that no doubt may exist in regard to their having been exhibited before him;

and the Collector^[1] shall, before proceeding to judgment, warn the party that no accounts or other documentary evidence of any kind which he shall not produce before him, and for not producing which he may not assign good and sufficient cause, will be received at any future period, either by the Revenue or Judicial Authorities, and shall record his having done so on the face of his proceedings.

17. On receiving the answer of the party the Collector^[1] shall summon any witnesses he may deem necessary to support the claim of Government, with any which the party may desire to have summoned on his behalf, and shall take their depositions in judicial form, and in the presence of the party or his authorized agent.

18. The Collector^[1] shall carefully examine all documents that may be produced by the party, and shall likewise give the party access to inspect all documents on which he may rely in proof of the liability of the land to assessment.

19. First.—The Collectors and other officers exercising the powers of Collectors^[1] are hereby authorized to summon witnesses and administer oaths, and to cause the execution of solemn declarations in lieu thereof in all cases brought before them under this Regulation * * * * *

Second. (Penalties for perjury applicable to witnesses who affirm.)
Rep. by the Repealing Act, 1873 (12 of 1873).
Third. (Penalties for resistance of process.) Rep. by the Repealing Act, 1876 (12 of 1876).

20. Having closed his proceedings, the Collector^[1] shall record his opinion in a * * * * * *nubakari* detailing the grounds on which it is founded, and whether the lands appear liable to assessment or otherwise, and shall forward his proceedings to the Board of Revenue or other authority exercising the powers of that Board,^[6] in such mode as may

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 55, *post*, p. 267.
 [2] Section 19 has been extended by the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 19 (2), *post*, p. 256.
 [3] As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-78, Ed. 1909, p. 385.
 [4] Portion repealed by the Repealing Act, 1874 (16 of 1874), is omitted.
 [5] The word "Persian," in ss. 20 and 21, which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.
 [6] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

Procedure on completion of inquiry.

Collector's authority to summon witnesses, and administer oaths.

Examination of documents.

Witnesses for and against claim of Government to be examined.

Documents produced.

(Secs 21-22)

be directed by that authority, furnishing the party at the same time with a copy on plain paper of the final *rubakar* aforesaid, and reporting his having done so to the Board or other authority^[7] as aforesaid

21 *First*—The Board of Revenue or other authority^[7] aforesaid, Procedure of Board on receipt of Collector's proceedings, after calling for any further evidence which, on a consideration of the Collector's proceedings, they may deem wanting, shall, on a day to be fixed by a public notice affixed in the office, not being less than six weeks from the date on which the Collector^[7] may have furnished the party with a copy of his final *rubakar*, and after hearing anything which the party, if in attendance, may wish to urge in his own behalf, proceeded to pass judgment in the case, and shall record their opinion in a * * *^[3] *rubakar*, delivering a copy thereof to the party on his requisition to that effect

Second—The final *rubakars* which the Collectors^[2] and the final *rubakar* shall contain a distinct statement of the subject-matter of the case, the grounds on which the decision may be given, the names of the witnesses whose depositions may have been taken and the title of every exhibit read

Third—If the Board of Revenue or other authority^[7] aforesaid In what case pronounce against the assessment, the proceedings shall be considered final, except on proof in a Court of Judicature of fraud or collusion in the previous inquiry

Fourth—In the event of the Board's^[7] declaring the lands liable to assessment, the Collector^[7] shall inform the party or his *vakil* of the decision of the Board^[7] and shall proceed to ascertain the limits of the land, and shall fix an assessment on the principles of the general assessment, Regulations on such information as may be procurable

[22. *First*—If the party shall, within a fortnight of his receiving intimation of the Board's^[7] decision, tender to the Collector^[7] respons-

When party in possession of land

[7] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in footnote to the Bihar and Orissa Board of Revenue Act 1913 (D and O Act I of 1913), s 3 in Vol III of this Code.
[7] As to the exercise of functions of Collectors by other officers, see the Bengal Land Revenue Settlement Regulation, 1822 (7 of 1822) s 39, post, p 267
[7] The word "Board," in s 21 (2), was substituted for the word "Boards" by the Amending Act, 1903 (1 of 1903), Sch. II—see post, p 704
[7] Section 22 has been modified and restricted by the Bengal Land revenue Settlement Regulation 1825 (8 of 1825), ss 5 and 8, post, pp 292 and 297 and has also been modified by the Bengal Land revenue Assessment (Resumed Lands) Regulation, 1829 (3 of 1829), s 10, post, p 320.

(Sec. 22.)

ible security for the payment from that date of the *jama* which may eventually be fixed on the land, with interest at the rate of twelve per cent., and shall engage to institute a suit in the Court in which the case may be cognizable within ten days, commencing from the date of the deed of security, or (if the Court shall be shut, and shall not be opened until after the expiration of such ten days) within three days, calculating from the day on which it may be opened, to try the justness of the demand, the Collector^[1] shall leave the party in possession as before, reporting the circumstance for the information of the Board^[2]].

Provided, however, that in such cases the party shall produce all his accounts of collections for the information of the Collector^[1], in estimating the amount of the security to be required.

Second.—If the party be willing to give security for a portion only of the *jama* eventually assessable on the land, it shall be competent to him to do so on the conditions above specified.

In this case the Collector^[1] shall, under the orders of the Board^[2] either hold the lands *khas* or farm them for such period as the Board^[2] may direct, and shall pay to the party a portion of the collections proportionate to the amount for which he may be willing and able to give responsible security.

Third.—It shall be competent to the Court to direct the Collector^[1] to take the security offered by the party, if he shall refuse to do so, and the Court shall be satisfied that it is sufficient; but it shall rest with the Collector^[1] subject to the directions of the Board^[2], to fix the amount for which the surety is to be held bound.

Fourth.—The amount shall not, in the first instance, exceed the estimated annual revenue assessable on the lands, or the amount receivable by the party in one year, with interest; but if, at the expiration of one year from the date on which the party may receive intimation of the Board's^[2] decision, the suit shall still be pending, it shall be competent to the Collector^[1] to require additional security for the same amount.

Fifth.—In *mukawaris* the parties giving security, and intending to sue, shall continue to pay the *mukawari jama*, and will be required to give security for the remaining revenue which may be eventually demandable from them.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.
[2] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

Procedure of
Collector if
party do not
furnish full
security.

Court may
determine
on sufficiency
of security
tendered.

Amount of
security how
regulated.

Security in
case of
mukawaris.

(Secs. 23-26.)

[1] 28. If the party do not give security, or having given security, fail to neglect to sue, the Collector^[2] shall proceed to the final assessment of the land.

[1] 24. First.—Persons whose lands may be assessed, either in failure to give security or to institute a suit within the prescribed time, shall nevertheless be entitled to sue any time within one year from the date of their being informed of the Board's^[3] decision; but after the above period shall have elapsed the decision of the Board^[2] shall be final and conclusive:

Provided, however, that in cases in which the party may be able to show good and sufficient cause for not having sued within the said period, such as minority or absence, no limitation as to time shall prevail other than that generally prescribed by the existing Regulations in regard to private claims.

Second.—(Further proviso.) Rep. by the Repealing Act, 1874 (16 of 1874).

25. (Courts in which suits under this Regulation are to be instituted.) Rep. by the Repealing Act, 1874 (16 of 1874).

[1] 26. First.—In cases instituted in the Zila Court * * * [3] an appeal from Zila to Sadar Court * * * [5] shall be received by the Court of Sadar District Adalat * * * [5] in Procedure on such appeals. Second.—* * * [5] The Sadar District Adalat * * * [5] in all cases of * * * [5] appeal being preferred in conformity with the provisions of this Regulation, shall, together with the decree against which such appeal may be lodged, likewise peruse the final *rubakar* filed in the case by the Board of Revenue or other authority exercising the powers of that Board^[2]; and, if on a consideration of those documents the decision of the Court should appear unjust or erroneous or doubtful, or its proceedings in the case manifestly irregular or imperfect, or if, from the nature of the cause, as stated in the decree or otherwise, it shall appear to them of sufficient importance to merit a further investigation in appeal, they shall admit [5] [an appeal].

Land-revenue Assessment

Land-revenue Assessment
cers, see the Bengal Land-
e by other authorities, see
and Orissa Board of Revenue Act, 1913 (B. and
his Code
y the Bengal Land-revenue Assessment (Resum'd
(1), *post*, p. 321.
Act, 1874 (16 of 1874), are omitted.
[2] The original words were "a special appeal." The word "special" was repealed
by the Repealing Act, 1874 (16 of 1874), and the words "an appeal" were substituted
p. 336.
by the Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1837-37, L.T. 1909,

(Secs. 27-31.)

27. (Stamped paper and fees.) *Rep. by the Repealing Act, 1874*
(16 of 1874.)

Validity of
fermans,
sands or
grants to be
carefully
ascertained.

Such deeds
not to be
received
unless
registered.

28. *First*.—On the production of any written document purporting to be a *farran* of any King of Delhi, or to be a *sand*, *parwana* or other grant of any *Wazir*, or of any *Nawab*, *Raja* or other potentate or person formerly exercising authority in any part of the Provinces and territories now subject to the British Government, it shall be the duty of the Revenue and Judicial Authorities before whom such document may be produced to ascertain the validity and authenticity of it, by reference to such offices and records, and by the examination of such living witnesses, as may be likely to lead to the due appreciation thereof; and the said authorities shall not receive such document in evidence merely on the credit of the seal, or other attestations impressed upon it, without some external evidence in corroboration of its authenticity.

Second.—Provided also that no document of the above description which may be produced to any Court or *Adalat* shall be received, nor any proceedings held thereon, nor any faith given thereto, unless it shall be proved that the said document has been duly registered under the rules and requisitions of Regulations 19^[1] and 37^[2], 1793, [41 and 42, 1795]^[3], 8, 1800^[4], 31 and 36, 1803^[5], and 7, 1808^[6]; or unless due cause be shown for the non-registration.

29. (Regulation applied to cases in which Collector suspects validity of original tenures of land, subsequently commuted for money-pensions.) *Rep. by the Repealing and Amending Act, 1891* (12 of 1891).

30. (Trial by Collectors of resumption and other suits)^[7]. *Rep. by the Bengal Land-revenue Resumption Act, 1862* (Ben. Act 7 of 1862).

31. *First*.—Nothing in the present Regulation shall be considered to affect the right of the proprietors of estates for which a permanent settlement has been concluded to the full benefit of all waste-lands included within the ascertained boundaries of such estates respectively at the period of the decennial settlement, and which have since been or may hereafter be reduced to cultivation. The exclusive advantages resulting

[1] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 49.
[2] The Bengal Revenue-free Land (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 67.
[3] Ben. Regs. 41 and 42 of 1795 and 31 and 36 of 1803 were repealed (except in certain areas) by the N.-W. Provinces Land-revenue Act, 1873 (19 of 1873).
[4] The Bengal Revenue-free Lands Regulation, 1800. It is printed *ante*, p. 87.
[5] Ben. Reg. 7 of 1808 was repealed by Act 29 of 1871.
[6] Suits by proprietors, etc., for the resumption of revenue, and suits by persons claiming to hold land exempt from payment of revenue, are now heard by the Civil Courts like ordinary civil suits—see the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862), s. 2, in Vol. II of this Code.

(Sec 31)

from the improvement of all such lands were guaranteed to the proprietors by the conditions of that settlement, and it being left to the Courts of Judicature to decide on all contested cases whether lands assessed under the provisions of this Regulation were included at the period of the decennial settlement within the limits of estates for which a settlement has been concluded in perpetuity, and to reverse the decision of the Revenue authorities in any case in which it shall appear that lands which actually formed, at the period in question, a component part of such an estate, have been unjustly subjected to assessment under the provisions of this Regulation, the *zamindars* and other proprietors of land will be enabled, by an application to the Courts, to obtain immediate redress in any case in which the Revenue authorities shall violate or encroach on the rights secured to them by the permanent settlement.

Second—It is further hereby declared and enacted that all claims Nor to warrant claim to additional revenue from lands which were at the period of the decennial settlement included within the limits of estates for which a permanent settlement has been concluded, whether on the plea of error or fraud, or on any pretext whatever, saving of course, the case of lands expressly excluded or land from the operation of the settlement, such as *lakhtay* and *thandarr* Exemption, lands, shall be and be considered wholly illegal and invalid.

(THE BENGAL PATNI TALUKS REGULATION, 1819)

SECTION

- 1** Preamble
- 2** Leases fixing rent in perpetuity or for more than ten years, valid, though executed while section 2, Reg. 44, 1793, was in force
- 3** *First—Patni tenures declared valid, transferable and answerable for debt
Second—Patnidar's right of under letting
Third—Patni tenure not voidable for arrears*
- 4** Inferior tenures under similar title deeds confer similar interest to that provided for patni taluks in section 3
- 5** Zamindar not to refuse to give effect to transfer, but may demand fee, and security
- 6** Zamindar may refuse sanction to transfer till fee and security tendered
- 7** Upon public sale, if security not tendered within one month, zamindar may attach Attachments to have effect of trust
- 8** *First—Zamindars allowed sales of tenures, in which right to sell for arrears is reserved
Second—First sale to be applied for on first of Basakh
Third—Mid year sale to be applied for on first of Kartik*
- 9** Sales how conducted
- 10** Forms to be observed in selling.
- 11** " " mbrace by act of defaulter sale.
fide engagements with ranyats ely
- 12** Proviso Rule not to apply to private transfers
- 13** *First—Reason for allowing under tenants means of staying sale.
Second—How under tenants may stay sale
Third—Procedure in case of amount lodged being rent due from under tenant,
Fourth—and in case of amount lodged being advanced from private funds*
- 14** *First—Sale not to be stayed unless arrear claimed be lodged
But suit to lie for its reversal
Second—Defaulter may apply for summary investigation
Sale not to be stayed unless amount claimed be deposited*
- 15** *First—Delivery of possession to purchaser
Second—Procedure in case of opposition to purchaser
Third—Procedure in case of continued opposition*
- 16** (*Repealed*)
- 17** *First—Disposal of proceeds of sales
Second—Deduction on account of Government
Third—Payment to zamindars
Fourth—Disposal of remainder
Fifth—Under tenants free to prosecute for price of their interest or compensation
Sixth—Suit not to lie if under tenant be himself in arrear at time of sale.
Seventh—When defaulter to receive excess unclaimed
Eighth—Substitution of Government securities for cash in deposit*
- 18, 19** (*Repealed*)

BENGAL REGULATION 8 OF 1819.

(THE BENGAL PATNI TALUKS REGULATION, 1819.)^[1]

(3rd September, 1819.)

A Regulation to declare the validity of certain tenures, and to define the relative rights of *zamindars* and *patni talukdars*; also to establish a process for the sale of such *taluks* in satisfaction of the *zamindar's* demand of rent * * * *^[2]

1. By the rules of the perpetual settlement^[3] proprietors of estates Preamble. paying revenue to Government, that is, the individuals answerable to Government for the revenue then assessed on the different *maháls*, were declared to be entitled to make any arrangements for the leasing of their land in *taluk* or otherwise that they might deem most conducive to their interests.

By the rules of Regulation 44, 1793,^[4] however, all such arrangements were subjected to two limitations; first, that the *jama* or rent should not be fixed for a period exceeding ten years; and, secondly, that in case of a sale for Government arrears, such leases or arrangements should stand cancelled from the day of sale.

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897). Sch III—see *post*, p 610

LOCAL EXTENT.—This Regulation extends to the whole of the former Province of

post, p 864

REFERENCES.—As to the application of parts of this Regulation to the recovery of sums payable under the Bengal Embankment Act, 1832 (Ben. Act 2 of 1832), see s 74 of that Act, in Vol II of this Code

Certain instruments executed under the Ancient Monuments Preservation Act, 1904 (7 of 1904), are binding on purchasers at sales made under Ben Reg 8 of 1819—see Act 7 of 1904, s 8, in General Acts, 1904-09, Ed 1909, p 17

FURTHER ENACTMENTS.—For other enactments dealing with *patni taluks*, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820—*post*, p 224), the Forfeited Deposits Act, 1850 (25 of 1850—*post*, p 353), the Rent Recovery Act, 1853 (6 of 1853—*post*, p 355), and the Bengal Rent Recovery (Under tenures) Act, 1865 (Ben Act 8 of 1865—in Vol II of this Code)

Enactments relating to the Orissa Tenancy Act, 1915 (B and O Act II c Code, and by the Bengal Tenancy Act, 1885 (I

[²] Words omitted ing Act, 1891 (12 of 1891), are

[³] See the Bengal Permanent Settlement Regulation, 1793 (1 of 1793), *ante*, p 3

[⁴] Reg 44 of 1793 was repealed by Act 29 of 1871.

(Sec. 1.)

The provisions of section 2, Regulation 44, 1793,^[1] by which the period of all fixed engagements for rent was limited to ten years, have been rescinded by section 2, Regulation 5, 1812,^[2] and in Regulation 18^[3] of the same year, it is more distinctly declared that *zamindars* are at liberty to grant *taluks* or other leases of their lands, fixing the rent in perpetuity at their discretion, subject, however, to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue in the same manner as heretofore.

In practice, the grant of *taluks* and other leases at a rent fixed in perpetuity had been common with the *zamindars* of Bengal for some time before the passing of the two Regulations last mentioned, but, notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations 5^[2] and 18^[3] of 1812, or in any other Regulations, whether tenures at the time in existence and held under covenants or engagements entered into by the parties in violation of the rule of section 2, Regulation 44, 1793,^[1] should, if called in question, be deemed invalid and void as heretofore.

This point it has been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity, or for a longer term than ten years, while the rule fixing this limitation to the term of all such engagements, and declaring null and void any granted in contravention thereto, was in force.

Furthermore, in the exercise of the privilege thus conceded to *zamindars* under direct engagements with Government, there has been created a tenure which had its origin on the estates of the *Rájá* of Burdwan, but has since been extended to other *zamindaris*; the character of which tenure is that it is a *taluk* created by the *zamindar*, to be held at a rent fixed in perpetuity by the lessee and his heirs for ever; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the *zamindar's* discretion; but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbment has always in practice been liable to be so called upon at the option of the *zamindar*.

[¹] Reg. 44 of 1793 was repealed by Act 29 of 1871.

[²] The Bengal Land-revenue Sales Regulation, 1812. It is printed *ante*, p. 133.

[³] The Bengal Leases and Land-revenue Regulation, 1812. It is printed *ante*, p. 141.

(Sec. 1.)

By the terms also of the engagements interchanged, it is amongst other stipulations provided that, in case of an arrear occurring, the tenure may be brought to sale by the *zamindar*, and, if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand.

These tenures have usually been denominated *patni taluks*, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons, who on taking such leases went by the name of *darpatni talukdars*: these again sometimes similarly underlet to *sepatnidars*; and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder.

In these engagements, however, it is not stipulated whether the sale thus reserved to himself by the grantor is for his own benefit, or for that of the tenant; that is, whether, in case the proceeds of sale should exceed the *zamindar's* demand of rent, the tenant would be entitled to such excess; neither is the manner of sale specified, nor do the usages of the country nor the Regulations of Government afford any distinct rules by the application of which to the specific cases the defects above alluded to could be supplied or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner.

The tenures in question have extended through several *zilas* of Bengal, and the mischiefs which have arisen from the want of a consistent rule of action for the guidance of the Courts of Civil Judicature in regard to them have been productive of such confusion as to demand the interference of the legislature; it has accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the creation of a *patni taluk* as above described, also to declare the legality of the practice of under-letting in the manner in which it has been exercised by *patnidars* and others, establishing at the same time such provisions as have appeared calculated to protect the under-lessee from any collusion of his immediate superior with the *zamindar* or other, for his ruin, as well as to secure the just rights of the *zamindar* on the sale of any tenure under the stipulations of the original engagements entered into with him.

It has further been deemed indispensable to fix the process by which the said tenures are to be brought to sale, and the form and manner of conducting such sale; and

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It has further been deemed indispensable to fix the process by which the said tenures are to be brought to sale, and the form and manner of conducting such sale; and

whereas the estates of *zamindars* under engagements with Government are liable to be brought to sale at any time for an arrear in the

(Sec. 2.)

revenue payable by monthly *kists* to Government, it has seemed just to allow any *zamindar* who may have granted tenure with a stipulation of the right to sell for arrears the opportunity of availing himself of this means of realizing his dues in the middle of the year, as well as at the close, instead of only at the end of the Bengal year^[1], as heretofore allowed by the Regulations in force; it has further been deemed equitable to extend this rule to all cases in which the right of sale may have been reserved, even though, in conformity with the Regulations heretofore in force, the stipulation for sale contained in the engagements interchanged may have restricted such sale to the case of a demand of rent remaining unpaid at the close of the Bengal year.^[1]

* * * * *

The following rules have accordingly been enacted by His Excellency the Most Noble the Governor General in Council, to take effect from the date of their promulgation throughout the several districts of the Province of Bengal, including [*Midnapore*].

Leases fixing rent in perpetuity or for more than ten years, valid, though executed while section 2, Regulation 44, 1793, was in force.

2. It is hereby declared that any leases or engagements for the fixing of rent now in existence that may have been granted or concluded for a term of years or in perpetuity by a proprietor under engagements with Government, or other person competent to grant the same, shall be deemed good and valid tenures, according to the terms of the covenants or engagements interchanged notwithstanding that the same may have been executed before the passing of Regulation 5, 1812,^[3] and while the rule of section 2, Regulation 44, 1793,^[4] which limited the period for which it was lawful to grant such engagements to ten years, and declared all that might be entered into for a longer term to be null and void, was in full force and effect; and notwithstanding that the stipulations of the said leases may be in violation of the rule in question :

Provided, however, that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors of estates paying revenue to Government from the liability to be cancelled on sale of the said estates for arrears of the said revenue, * * *^[5] unless especially exempted from such liability by the rule in question, or by any other specific rule of the Regulations in force.

[1] i.e., the middle of *Chaitra*, which corresponds with the last part of March and the first part of April.

[2] The words "It has been likewise deemed advisable to explain and modify some of the existing rules for the collection of rents, with a view to render them more efficacious than at present, as well as to provide against sundry means of evasion now resorted to by defaulters," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] The Bengal Land-revenue Sales Regulation 1812. It is printed *ante*, p. 133.

[4] Ben. Reg. 44 of 1793 was repealed by Act 29 of 1871.

[5] The words and figures "under the rule of s. 5, Regulation 44 of 1793," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 3-5.)

3. *First.*—The tenures known by the name *patni taluks*, as described in the preamble to this Regulation, shall be deemed to be valid tenures in perpetuity, according to the terms of the engagements under which they are held. They are heritable by their conditions; and it is hereby further declared that they are capable of being transferred by sale, gift or otherwise, at the discretion of the holder, as well as answerable for his personal debts, and subject to the process of the Courts of Judicature, in the same manner as other real property.

Patni to be declared valid, transferable and answerable for debt.

Second.—*Patni talukdars* are hereby declared to possess the right of letting out the lands composing their *taluks* in any manner they may deem most conducive to their interest; and any engagements so entered into by such *talukdars* with others shall be legal and binding between the parties to the same, their heirs and assignees:

Patnidar right of letting out

Provided, however, that no such engagements shall operate to the prejudice of the right of the *zamindar* to hold the superior tenure answerable for any arrear of his rent, in the estate in which he granted it, and free of all incumbrance resulting from the act of his tenant.

Third.—In case of an arrear occurring upon any tenure of the description alluded to in the first clause of this section, it shall not be liable to be cancelled for the same; * * [*]but the tenure shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale beyond the amount of the arrear of rent due, subject, however, to the provisions contained in section 17 of this Regulation.

Patni tenures not void for arrear

4. If the holder of a *patni taluk* shall have underlet in such manner as to have conveyed a similar interest to that enjoyed by himself, as explained in the preamble to this Regulation, the holder of such a tenure shall be deemed to have acquired all the rights and immunities declared in the preceding section to attach to *patni taluks*, in so far as concerns the grantor of such under-tenure.

Inferior tenures under similar title deemed to confer interest to that provided for in section 17

The same construction shall also hold in the case of *patni taluks* of the third or fourth degree.

[2]5. The right of alienation having been declared to vest in the holder of a *patni taluk*, it shall not be competent to the *zamindar* or other superior to refuse to register, and otherwise to give effect to such alienations, by discharging the party transferring his interest from personal responsibility, and by accepting the engagements of the transferee.

Zamindar not to refuse to give effect to transfers

[1] The words and figures "under the rule contained in the seventh clause of s. 15, Regulation 7, 1799, for leases conveying a limited interest in the land," which were repealed by the Repealing Act, 1877.

(*) Section 5 does not apply to any alienation other than that of the transferee.

(Secs. 6-7.)

but may
demand fee,

In conformity, however, with established usage, the *zamindar* or other superior shall be entitled to exact a fee upon every such alienation; and the rate of the said fee is hereby fixed at two *per cent.* on the *jama* or annual rent of the interest transferred, until the same shall amount to one hundred rupees, which sum shall be the maximum of any fee to be exacted on this account.

and security.

The *zamindar* shall also be entitled to demand substantial security from the transferee or purchaser, to the amount of half the *jama* or yearly rent payable to him from the tenure transferred; the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure.

The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of Court, as to all other alienations, but it shall not apply to the case of sale for an arrear in the rent due to the *zamindar* or other superior, under the rules hereinafter contained.

The purchaser at such a sale shall be entitled to have his name registered and to obtain possession without fee, though of course liable to be called on to give security under the conditions of the tenure purchased.

Zamindar
may refuse
sanction to
transfer till
fee and
security
tendered.

6. It shall be competent to the *zamindar* or other superior to refuse the registry of any transfer until the fee above stipulated be paid, and until substantial security to the amount specified be tendered and accepted:

Provided, however, that if the security tendered by any purchaser or transferee should not be approved by the *zamindar*, and the party tendering it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the Civil Court of the district, which authority, if satisfied of the sufficiency of the security tendered, shall issue an injunction on the *zamindar* to accept it and give effect to the transfer without delay.

It is hereby provided that the rules of this and of the preceding section shall not be held to apply to transfers of any fractional portion of a *patni taluk*, nor to any alienation other than of the entire interest; for no apportionment of the *zamindar's* reserved rent can be allowed to stand good unless made under his special sanction.

Upon public
sale, if
security not
tendered
within one
month,
zamindar
may attach.

7. In case of the sale of a *patni* tenure in execution of a judgment of Court, if the purchaser do not, within the period of one month from the sale, conform to the rules of section 5 of this Regulation, in order to obtain the transfer of his tenure by the superior to whom the rent fixed upon it is payable, the *zamindar* or other superior shall be entitled, of his own authority, to send a *sazawál* to attach and hold possession of the tenure until the forms prescribed be observed.

(Sec. 8.)

In case also of the sale of a *patni* tenure for arrears of the rent due upon it, under the rules of this Regulation, if security be required by the *zamindar* and the purchaser fail to furnish the same within one month of the date of sale, the *zamindar* shall similarly be entitled to send a *sazawdl* to attach and hold possession of the interest which may have passed on the sale, to the exclusion of the purchaser, until the prescribed security be given.

Attachments made under this section shall be regarded as trusts for the benefit and at the risk of the purchasers: consequently, after deducting the rent due and the expense of attaching, any surplus that may be yielded by the collections shall be held in deposit for such purchaser; but if the collections for the time fall short of the rent, the tenure and person of the proprietor shall be liable in the same manner as if no attachment had been made, and the accounts produced by the *zamindar* or other superior making the attachment shall be received as *prima facie* evidence to warrant process for an arrear so accruing.

[1] 8. *First.*—*Zamindars*, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for periodical sales of any tenures upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure.

Zamindars allowed sales of tenures, in which right to sell for arrears is reserved.

The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the Regulations in force.

Second.—On the first day of *Baisakh*, [2] that is, at the commencement of the following year from that of which the rent is due, the *zamindar* shall present a petition * * * [3] to the Collector, [4] containing a specification of any balances that may be due to him on account of the expired year, from all or any *talukdars* or other holders of an interest of the nature described in the preceding clause of this section.

First sale to be applied for on first of *Baisakh*.

[1] As to the officer who should conduct sales of tenures of the nature of those described in clause first of s. 8 of Ben. Reg. 8 of 1819, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2, *post*, p. 223, and the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 3, in Vol. II of this Code.

[2] 1 of 1820, s. 2 (3), *post*, p. 224. [3] 1 of 1820, s. 2 (3), *post*, p. 224. [4] 1 of 1820, s. 2 (3), *post*, p. 224.

[5] The words "to the Civil Court of the district, and a similar one," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[6] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

(Sec. 8.)

The same shall then be stuck up in some conspicuous part of the *cutcherry* with a notice that, if the amount claimed be not paid before the first of *Jeth*^[1] following, the tenures of the defaulters will on that day be sold by public sale in liquidation.

Should, however, the first of *Jeth*^[1] fall on a Sunday or holiday, the next subsequent day, not a holiday, shall be selected instead; a similar notice shall be stuck up at the *sadar cutcherry* of the *zamindar* himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent to be similarly published at the *cutcherry* or at the principal town or village upon the land of the defaulter.

The *zamindar* shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the *mufassal* shall be served by a single peon, who shall bring back the receipt of the defaulter, or of his manager, for the same, or, in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot.

If it shall appear from the tenor of the receipt or attestation in question that the notice has been published at any time previous to the fifteenth of the month of *Baisakh* ^[2] it shall be sufficient warrant for the sale to proceed upon the day appointed.

In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the *cutcherry* of the nearest *munshif*, or if there should be no *munshif*, to the nearest *thana*, and there make voluntary oath of the same having been duly published; certificate to which effect shall be signed and sealed by the said officers and delivered to the peon.

Third.—On the first day of *Kartik*^[3], in the middle of the year, the *zamindar* shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year, up to the end of the month of *Assin*^[4], and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of *Aghan*,^[5] unless the whole of the advertised balance shall be paid before the date in question, or so much of it as

Mid-year
sale to be
applied for
on first of
Kartik.

[¹] The month of *Jeth* corresponds with the last part of May and the first part of June.

[²] The month of *Baisakh* corresponds with the last part of April and the first part of May.

[³] The month of *Kartik* corresponds with the last part of October and the first part of November.

[⁴] The month of *Assin* corresponds with the last part of September and the first part of October.

[⁵] The month of *Aghan* corresponds with the last part of November and the first part of December.

(Secs. 9-10.)

shall reduce the arrear, including any intermediate demand for the month of *Kartik*,^[1] to less than one fourth or a four anna proportion of the total demand of the *zamindar*, according to the *listbandi*, calculated from the commencement of the year to the last day of *Kartik* ^[2]

[2] 9. All sales of saleable tenures applied for under the rules of this Regulation shall be made in public *cutcherry* * * *^[3], the land ^{Sales how conducted} shall be sold to the highest bidder, and every one, not the actual defaulter, shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under tenants of the defaulter, fifteen *per cent* of the purchase money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount required to be deposited is in hand for the purpose, or will be produced within two hours

If the fifteen *per cent* be not paid in cash, or in^[4] [currency notes], within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be re sold on the same day, and, if the remainder of the purchase-money be not paid by noon of the eighth day, notice shall be given of re sale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the *bazar* of the sadar station of the *zila*, after which the lot shall be re sold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen *per cent* already made, * * *^[5] and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one, such deficiency to be levied by the process for the execution of decrees of the Civil Courts

10 At the time of the sale the notice previously stuck up in the *cutcherry* shall be taken down, and the lots be called up successively in the order in which they may be found in that notice ^{Forms to be observed in selling}

A person shall attend on the part of the *zamindar*, with a particular statement of the payments made up to the day of sale, on account of the

[1] The month of *Kartik* corresponds with the last part of October and the first part of November

[2] As to the extension of the application of s 9, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820) s 2 (3) *post*, p 224

[3] The words "by the Register or acting Register of the Civil Court, or, in his absence, by the person in charge of the office of Judge or of Magistrate of the district within which the lands may be situated", which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[4] The words "currency notes" in s 9 were substituted for the words "notes of the Bank of Bengal" by the Amending Act, 1903 (1 of 1903) Sch II—see *post*, p 704

[5] The words "(which shall be in such case regarded as part of the proceeds of the sale)", in s 9 which were repealed by the Forfeited Deposits Act, 1850 (25 of 1850), are omitted As to the application of forfeited deposits, see s 2 of that Act, *post*, p 290

balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the *mufassal*, nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate *rubakari* to be held upon each lot sold.

If the sale be of the description provided for in the third clause of section 8 of this Regulation, the *kistbandi* of the defaulter shall likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale; nor shall the sale take place unless this be ascertained.

The *zamindar* shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect, except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this Regulation.

Tenure to be sold free of incumbrance by act of defaulter.

[¹]11. *First*.—It is hereby declared that any *taluk* or saleable tenure that may be disposed of at a public sale, under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said *taluk* may have been held.

No transfer by sale, gift or otherwise, no mortgage or other limited assignment, shall be permitted to bar the indefeasible right of the *zamindar* to hold the tenure of his creation answerable, in the state in which he created it, for the rent, which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such *zamindar*.

No under-lease to stand after sale.

Second.—In like manner, on sale of a *taluk* for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land and to collect the rents of the *raiyats*; this having been enjoyed merely in consequence

[¹] As to the extension of the application of s. 11, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 224.

(Secs. 12-13.)

of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.

Third.—Provided, nevertheless, that nothing herein contained shall be construed to entitle the purchaser of a *taluk* or other saleable tenure intermediate between the *zamindar* and actual cultivators to eject a *khudkast rayat* or resident and hereditary cultivator, nor to cancel *bond fide* engagements made with such tenants by the late incumbent or his representative, except it be proved in regular suit, to be brought by such purchaser for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by his predecessor.

Exception in favour of *bond fide* engagements with *rayats*.

12. The rules of the preceding section, being declaratory of the principle to be observed on all occasions wherein saleable tenures are made responsible for the *zamindar's* reserved rent, will equally apply to the case of *taluks*, heretofore sold, as to those that may be sold henceforward, if the sale shall have been fair, and the process observed in conducting it shall have been that recognised and in use in the district at the time of selling.

Above rule to take effect retrospectively.

Nothing, however, herein contained shall operate to the prejudice of any agreement, express or implied, now subsisting between the purchaser of a *taluk* and the lessees of his predecessor.

Proviso.

Neither shall the rule for the fall of under-tenures be considered to apply to any private transfer by a *talukdar* of his own interest, nor to a public sale in execution of a decree, nor to the case of a relinquishment by the *talukdar* in favour of the *zamindar*, nor to any act originating with the former holder, other than default as aforesaid: all such operations involve only a transfer of the tenure in the state in which it may be held at the time, and the new incumbent succeeds to no more than the reserved rights of the former tenant, such as they may be, and is of course subject to any restriction put upon the tenure by his act.

Rule not to apply to private transfers.

[¹]13. *First.*—With reference to the injury that may be brought upon the holder of a *taluk* of the second degree by the operation of the preceding rules, in case the proprietor or the superior tenure purposely withholds the rent due from himself to the *zamindar* after having realized his own dues from the inferior tenantry, it is deemed necessary to allow such *talukdars* the means of saving their tenures from the ruin that must attend such a sale; and the following rules have accordingly been enacted for this purpose.

Reason for allowing under-tenant means of staying sale.

[¹] As to the extension of the application of s. 13, see—
the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 224, and
the Bengal Rent Recovery (Under tenures) Act, 1865 (Ben Act 8 of 1865), in
Vol. II of this Code ;

(Sec. 13.)

How under-
tenants may
stay sale.

Second.—Whenever the tenure of a *talukdār* of the first degree may be advertised for sale in the manner required by the second and third clauses of section 8 of this Regulation, for arrears of rent due to the *zamindar*, the *talukdār*s of the second degree, or any number of them, shall be entitled to stay the final sale, by paying into Court the amount of balance that may be declared due by the person attending on the part of the *zamindar* on the day appointed for sale; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and, should the amount lodged be sufficient, the sale shall not proceed, but, after making good to the *zamindar* the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.

Procedure in
case of
amount
lodged being
rent due
from under-
tenant;

Third.—If the amount so lodged shall be rent due by the inferior *talukdār* to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.

and in case
of amount
lodged being
advance
from private
funds.

Fourth.—If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against, future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the *taluk* so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage; and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto.

If the defaulter shall desire to recover his tenure from the hands of the person or persons who, by making the advance, may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve *per cent. per annum* up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full

(Secs 14-15)

amount so advanced, with interest, has been realized from the usufruct of the tenure

14 First—Should the balance claimed by a *zamindar* on account of the rent of any under tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve, in the manner provided for in sections 9 and 10 of this Regulation, nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged Sale not to be stayed unless arrears claimed be lodged.

It shall, however, be competent to any party desirous of contesting the right of the *zamindar* to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the *zamindar* for the reversal of the same, and, upon establishing a sufficient plea, to obtain a decree with full costs and damages But suit to lie for its reversal.

The purchaser shall be made a party in such suits, and, upon decree passing for reversal of the sale, the Court shall be careful to indemnify him against all loss at the charge of the *zamindar* or person at whose suit the sale may have been made

Second—In cases also in which a *talukdar* may contest the *zamindar's* demand of any arrear, as specified in the notice advertised, such *talukdar* shall be competent to apply for a summary investigation at any time within the period of notice, the *zamindar* shall then be called upon to furnish his *kabuliyat* and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale Defaulter may apply for summary investigation

Such award, if so made, will of course regulate the ulterior process, but, if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit, and, if the *zamindar* or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash, or in Government securities, or in [¹][currency notes], by the *talukdar* contesting the demand, and if such deposit be not made, the alleged defaulter will have no remedy but by a regular action for damages and for a reversal of the sale Sale not to be stayed unless amount claimed be deposited.

[¹]**15 First**—So soon as the entire amount of the purchase money shall have been paid in by the purchaser at any sale made under this Regulation, such purchaser shall receive from the officers conducting the sale a certificate of such payment

[] The words currency notes in s 14 (*) were substituted for the words notes of the Bank of Bengal by the Amending Act, 1903 (1 of 1903), Sch II—see post, p 704

[¹] As to the extension of the application of s 15, see the Bengal Patni Taluks Regulation 1820 (1 of 1820) s. 2 (3) post, p 224

The purchaser shall then proceed with the certificate in question, to procure a transfer to his name in the *cutcherry* of the *zamindar*, and upon furnishing security, if required, to the extent of half the *jama* or annual rent, he shall receive the usual "*amaldustauk*" or order for possession, together with the notice to the *rai-yats* and others to attend and pay their rents henceforward to him.

The *zamindar* shall also be bound to furnish access to any papers connected with the tenure purchased that may be forthcoming in his *cutcherry*; and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Court,^[1] and he shall receive the orders for possession, and shall be put in possession, of the lands by means of the *nazir*, in the same manner as possession is obtained under a decree of Court:

Provided, however, that, if the delay be on account of the *zamindar's* contesting the sufficiency of the security tendered, the rule contained in section 6 of this Regulation shall be observed.

Procedure
in case of
opposition
to purchaser.

Second.—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the Civil Court^[1] for the aid of the public officers in obtaining possession of his just rights.

A proclamation shall then issue under the seal of the Court and signature of the Judge^[1] declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the *zamindar*, acquired the entire rights and privileges attaching to the tenure of the late *talukdar*, in the state in which it was originally derived by him from the *zamindar*, he alone will be recognized as entitled to make the *zamindari* collections in the *mufassal*, and no payments made to any other individual will on any account be credited to the *rai-yats* or others in any * * *^[2] suit for rent * * *^[3] or on any other occasion whatever when the same may be pleaded.

[1] As to the substitution of the Collector for the Court, see the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 3, in Vol. II of this Code.

[2] The word "summary," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[3] The words and figures "brought under the provisions of s. 15. Regulation 7, 1799, or in any application to stay process by distraint, under the rules of Regulation 5, 1812," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 16-17.)

Third.—Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the police-officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

Procedare
in case of
continued
opposition.

16. (*Sale of under-tenures for arrears.*) *Rep. by the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865).*

[1]17. *First.*—The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation.

Disposal of
proceeds of
sales.

Second.—One per cent. shall first be deducted from the net proceeds realized, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation.

Deduction
on account
of Govern-
ment.

Third.—The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the *taluk* to sale) to the *zamindar* or other person to whom the same may be due:

Payment to
zamindars.

Provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied. Such antecedent balances, if the *zamindar* shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual *talukdār*, and must be recovered in the same way as other debts by a regular suit in the Court.

Fourth.—Any excess that may remain after satisfying the demand of the *zamindar*, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the Collector^[1] or Assistant Collector of the district, to be there held in deposit to answer the claims of the *talukdārs* of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the *taluk* sold, or any part of it.

Disposal of
remainder

[1] As to the extension of the application of s. 17, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (5), *post*, p. 224.

[2] As to the exercise of functions of Collectors by other officers see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 36, *post*, p. 267.

(Sec. 15.)

The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the *cutcherry* of the *zamindar*, and upon furnishing security, if required, to the extent of half the *jama* or annual rent, he shall receive the usual "*amaldustauk*" or order for possession, together with the notice to the *raiya*t and others to attend and pay their rents henceforward to him.

The *zamindar* shall also be bound to furnish access to any papers connected with the tenure purchased that may be forthcoming in his *cutcherry*; and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Court,^[1] and he shall receive the orders for possession, and shall be put in possession, of the lands by means of the *nazir*, in the same manner as possession is obtained under a decree of Court:

Provided, however, that, if the delay be on account of the *zamindar*'s contesting the sufficiency of the security tendered, the rule contained in section 6 of this Regulation shall be observed.

Procedure
in case of
opposition
to purchaser.

Second.—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the Civil Court^[1] for the aid of the public officers in obtaining possession of his just rights.

A proclamation shall then issue under the seal of the Court and signature of the Judge^[1] declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the *zamindar*, acquired the entire rights and privileges attaching to the tenure of the late *talukdar*, in the state in which it was originally derived by him from the *zamindar*, he alone will be recognized as entitled to make the *zamindari* collections in the *mufassal*, and no payments made to any other individual will on any account be credited to the *raiya*t or others in any * * *^[2] suit for rent * * *^[3] or on any other occasion whatever when the same may be pleaded.

^[1] As to the substitution of the Collector for the Court, see the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 3, in Vol. II of this Code.

^[2] The word "summary," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

^[3] The words and figures "brought under the provisions of s. 15, Regulation 7, 1793, or in any application to stay process by distraint, under the rules of Regulation 5, 1812," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs. 16-17.)

Third.—Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the police-officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

Procedures
in case of
continued
opposition.

16. (*Sale of under-tenures for arrears.*) *Rep. by the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865).*

[1]17. *First.*—The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation.

Disposal of
proceeds of
sales.

Second.—One *per cent.* shall first be deducted from the net proceeds realized, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation.

Deduction
on account
of Govern-
ment.

Third.—The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the *taluk* to sale) to the *zamindar* or other person to whom the same may be due:

Payment to
zamindars.

Provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied. Such antecedent balances, if the *zamindar* shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual *talukdār*, and must be recovered in the same way as other debts by a regular suit in the Court.

Fourth.—Any excess that may remain after satisfying the demand of the *zamindar*, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the Collector^[2] or Assistant Collector of the district, to be there held in deposit to answer the claims of the *talukdārs* of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the *taluk* sold, or any part of it.

Disposal of
remainder

[1] As to the extension of the application of s. 17, see the Bengal Patni Taluks Regulation, 1820 (1 of 1820), s. 2 (3), *post*, p. 224.

[2] As to the exercise of functions of Collectors by other officers see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 36, *post*, p. 267.

(Sec. 17.)

Under-tenants free to prosecute for price of their interest or compensation.

Fifth.—It shall be competent to any one conceiving himself to possess such an interest to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale.

If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances.

If there be more claimants than one, payment shall not be made from the deposit until the whole of the claims be settled; and, in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal debt against the defaulter, to be realized from him by the usual process for the execution of decrees.

Suit not to lie if under-tenant be himself in arrear at time of sale.

Sixth.—Provided, however, that no *talukdār* of the second degree or other possessor of an assigned interest upon the land of the tenure sold, who may be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior *taluk*, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale.

When defaulter to receive excess unclaimed.

Seventh.—Should no claims upon the purchase-money of a *taluk* sold as above be brought forward by any under-tenants or assignees within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall receive a certificate under the seal of the Court, of there being no claims to afford ground of detention for the whole or any part of the deposit; and, upon exhibiting such certificate to the Collector^[1] the amount set free thereby shall be to his receipt.

In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the Court, declaring the amount adjudged to them out of the deposit; and upon exhibiting these certificates the amount shall be paid severally to their receipts by the Collector^[1].

[¹] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (Ben. Reg. 7 of 1822), s. 35, post, p. 267.

(Secs. 18-19.)

Eighth.—It shall be competent to any party interested in a deposit Substitution
to withdraw the whole or any part thereof on substituting Government of Govern-
securities, bearing interest, in lieu of the money so held in deposit; such ment
securities to be taken at the rate of discount or premium of the day. • securities for
• cash in
• deposit.

* *[*].

18, 19. (*Rules regarding attachment of land of defaulter; summary
process against person of defaulter.*) *Rep. by the Bengal Rent Act, 1859
(Act 10 of 1859).*

[*] The words "as shown by the Government Gazette last received," which were
repealed by the Amending Act, 1903 (1 of 1903), are omitted.

BENGAL REGULATION 1 OF 1820.

(THE BENGAL PATNI TALUKS REGULATION, 1820.)^[1]

(11th January, 1820.)

A Regulation for providing that all sales of certain taluks made answerable by sale for arrears of the *zamindar's* rent shall be conducted in the mode prescribed by Regulation 8, 1819,^[2] for the sales therein described.

1. Whereas it has been omitted to provide in the rules of Regulation 8, 1819^[2], whether, in case the proprietor of an estate paying revenue to Government should desire to bring to sale a saleable tenure of the nature defined in clause first, section 8, of that Regulation, for the realization of arrears of rent due thereupon, by any legal process other than that prescribed by the second and third clauses of the said section, such sale should be made in the public manner provided for the periodical sales therein described;

And whereas it is consonant with justice, and was intended by the said Regulation, that, in every case of the sale of such tenures for arrears of the *zamindar's* rent, the sale should be public, for the security of the interests of the owner of the tenure sold, which object can in no manner be duly secured except the sales to be so made be conducted by an officer of Government in the same manner as the periodical sales provided for by section 8 of the said Regulation;

the following additional rule has accordingly been passed by the Governor General in Council, to take effect, from the date of its promulgation, within the several districts of Bengal, including Midnapore:—

2. *First*.—Whenever the proprietor of an estate paying revenue to Government shall desire to cause any tenure of the nature of those described in clause first, section 8, Regulation 8, 1819^[2], to be sold for arrears of rent due to him on account thereof, and shall, under any summary process authorised by ^[3][law] have acquired the right of

Rules of Reg. 8, 1819, for periodical sales for *zamindar's* arrears of rent, extended to other sales for rent.

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 610.

LOCAL EXTENT.—This Regulation extends to the whole of the former Province of Bengal—see the concluding paragraph of s. 1.

The Regulation is in force in the Sonthal Parganas, see Vol. IV, Part IV; but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 664.

OTHER ENACTMENTS.—For a list of other enactments dealing with *patni taluks*, see foot note to the Bengal Patni Taluks Regulation, 1819 (8 of 1819), *ante*, p. 205.

[2] The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 205.

[3] The word "law" in s. 2 (2) was substituted for the words "the general Regulations" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 704.

(Sec. 2.)

causing such sale to be made, the same shall be conducted, after application from the *zamindar*, by the Registrar or acting Registrar of the *Zila* * *^[1] Court, or; in his absence, by the person in charge of the office of Judge of the district^[2] in the mode prescribed by Regulation 8^[3] above quoted for periodical sales.

Notice by
proclama-
tion.

Second.—Ten days' notice shall be given before proceeding to sale, by proclamation to be stuck up at the *cutcherry* of the Court and at that of the Collector of the district.

Rules extend-
ed to sales
hereunder.

Third.—The rules of sections 9, 11, 13, 15 and 17, Regulation 8, 1819^[3], are extended to all sales made after the manner herein provided.

[¹] The words "or City," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[²] As to the substitution of "the Collector of Land-revenue" for "the Judge," see the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act 8 of 1865), s. 3, in Vol. II of this Code.

[³] The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 205.

BENGAL REGULATION 4 OF 1821.

[THE BENGAL LAND-REVENUE (ASSISTANT COLLECTORS)
REGULATION, 1821.][¹]

A Regulation * * * * * [²] for explaining the duties of an Assistant Collector of revenue and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of *parganas* or other local divisions or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.

1. * * * * * [³] Whereas it is expedient to explain the duties Preamble. which may be performed by the Assistants to the Collectors of revenue, and to define the duties and powers vested in Assistant-Collectors or other officers when appointed to the charge of the revenues of *parganas* or other local divisions, or when employed in the performance of any, portion of the functions ordinarily belonging to Collectors of the land-revenue;

the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William [⁴].

2, 3. (*Power to confer magisterial powers on Collectors, and vice versa; oath to be taken by such Collectors and Magistrates.*) Rep. by the Repealing Act, 1873 (12 of 1873).

4 to 6. (*Magistrates and Collectors, in the exercise of such powers, to be guided by Regulations, etc., in force; Magistrates employed in the*

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see post, p 688

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding clause of s 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed in General Acts, 1868 78, Ed 1909, p 458), to be in force throughout the former Province of Bengal,

It has
1874), s 3,
and Pargar
Vol IV, Part III.
Act, 1874 (14 of
and Manbhurn,
ur Division—see

The application of the Regulation is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), post; and in the Sonthal Parganas by the of 1872), s 3 (2), as amended by the Sonthal (3 of 1893), s 3, post, p 832

declared by the Repealing and Amending Act,
by the Repealing Act, 1876 (12 of 1876), is

omitted
[⁴] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

(Secs. 7-8.)

collection of revenue to preserve records; rules declaring Collector amenable to Zila and City Courts to be applicable to such Magistrates.) Rep. by the Repealing Act, 1876 (12 of 1876).

Institution of
suit in Zila
Court for
recovery of
public
revenue.

7. In the institution of suits for the recovery of the public revenue, or in any case in which the institution of a suit by the Collector^[1] in the Zila * * ^[2]Courts is authorized or directed ^[3][by law], a Magistrate or Joint Magistrate or Assistant to a Magistrate, employed in the collection of the revenue, not being himself in charge of the office of Judge of a Zila * * ^[2]Court, shall proceed according to^[4] [the law for the time being in force] for the guidance of the Collectors^[1] under similar circumstances.

Power to
alter limits
of collector-
ships, and
number of
officers
employed as
Collectors.

8. First.—It is hereby declared and enacted that it is and shall be lawful for the ^[5][Local Government] to cause such alterations to be made in the limits of the several Collectorships, and in the number of the officers employed as Collectors of land-revenue, as may from time to time appear expedient, as well as to vest such officers, being covenanted servants * * *^[6] with authority to exercise the whole or any part of the functions ordinarily exercised by Collectors of land-revenue in such *mahál* or *maháls* belonging to such district or districts as may from time to time be deemed expedient; and any officers so employed shall perform their prescribed duties in the same manner, and subject to the same conditions and liabilities, as attached to Collectors of land-revenue in regard to such duties.

Power to
depute
subordinate
officer to
perform
Collector's
duties.

Second.—It shall also be competent to the Board of Revenue or other authority exercising the powers of the Board^[7] to depute any of the officers subordinate to their authority to exercise and perform all or any of the powers and duties ordinarily vested in Collectors of land-revenue within such local limits as they may judge expedient:

Provided, however, that in all such cases the Board or other authority aforesaid^[7] shall, on the day in which they may depute any officer as

^[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *post*, p. 267.

^[2] The words "or City" in s. 7, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

^[3] The words "by law", in s. 7, were substituted for the words "by the Regulations" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 704.

^[4] These words in square brackets in s. 7 were substituted for the words "the Regulations already in force" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 704.

^[5] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 704.

^[6] The words "of the Honourable Company," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

^[7] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

(Sec. 8.)

aforesaid or as soon after as practicable, report their having done so for the information and orders of the [1][Local Government].

Third.—The Collectors [2] of revenue are hereby authorized, with the sanction of the Board of Revenue[3] * * * [4] to delegate to their Assistants any part of their prescribed duties, which, from the extent of their general business or other cause, they may be unable to give due attention to themselves:

Power of Collectors to delegate part of their duties to their assistants.

Provided always that in the event of a Collector[2] deputing his Assistant to make local inquiries, or for any other purpose connected with the collection of the public revenue, he shall immediately report the same for the information and orders of the Board of Revenue[3] * * * [4] to which he may be subordinate.

Fourth.—(Oath to be taken by Assistant Collector.) Rep. by the Repealing Act, 1873 (12 of 1873).

Fifth.—Assistants or other officers[2] exercising the power of Collectors of revenue, or any portion thereof, under the provisions of this Regulation, shall be guided in every respect [5][by the laws] which have been or may be enacted for the management and collection of the revenue, as far as the same may be applicable to the duties committed to them respectively, and shall be considered responsible for the due performance of the duties entrusted to them, and shall be amenable to the Civil Courts of Judicature for any acts done by them in their official capacity, in opposition [6][to law], in the same manner, and under the same rules, as the Collectors of revenue.

Assistants, etc., to be guided by regulations responsible for performance of duties, and amenable to Civil Courts.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 704

[2] The words "by other officers," in the original text, are to be read as if the words "by other officers, see the Bengal Land Revenue Regulation, 1819, s. 35, *post*, p. 267" were substituted therefor—see the Orissa Board of Revenue Act, 1913 (B. and O. Act No. 1 of 1913), s. 3, *post*, p. 704

[3] The words "or the Boards of Commissioners," in s. 8, clause *Third*, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[4] The words "by the laws" were substituted for the words "by the Regulations" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 704

[5] The words "to law" were substituted for the words "to the Regulations" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 704

BENGAL REGULATION 7 of 1822

(THE BENGAL LAND-REVENUE SETTLEMENT REGULATION, 1822)

CONTENTS

SECTION

- 1 Preamble
- 2 *First to Fifth —(Repealed)*
Sixth—General rule relative to zamindars holding on after expiration of their leases
- 3 Settlements how made
- 4 Admission of particular persons to engage for payment of revenue, not to bar Revenue officers from interfering to adjust rights of other persons or classes.
 - 5 *First —(Repealed)*
Second—*Malikana* to be allowed to proprietors of estates farmed or held *khass*
Third—*Zamindars* may be called upon to state *jama* for which they are willing to engage
- 6 *First*—Revenue officers may revise settlement of estates of which existing leases shall be extended under section 2, during continuance of such extended lease
 - Second*—Revision of settlement how made
 - Third*—Revision of settlement not to operate to alter *jama* payable on account of lands included in existing engagements
 - Fourth —(Repealed)*
- 7 *First*—Leases to be granted on revision of settlement
 - Second*—*Jama* for years subsequent to 1234, how adjusted
 - Third*—*Pattas* granted on revised settlement to cover only lands specified
 - Fourth—(Repealed)*
 - Fifth*—Power to postpone final settlement until expiration of current leases
 - Sixth*—Rules applied to estates in Gorakhpur, etc.
- 8 Letting of excess waste lands -
Allowance to zamindars
- 9 *First*—Investigations by Collectors making or revising settlements
 - Second*—Collectors etc, may grant *pattas* to *mufassal zamindars* and *raiyats*
 - Third*—Power to take engagements for revenue without completing detailed inquiry
- 10 *First*—Power to determine which of several holders of differing interests, having separate properties in same land shall be admitted to engage, and to prescribe distribution of profit resulting from limitation of *jama*
 - Second*—*Mufassal* settlements in cases where title of intermediate manager between Government and proprietors or hereditary occupants of soil are maintained
 - Third*—Settlement where several persons hold common property subject to common obligations
 - Fourth*—When joint settlement to be made, parties how summoned
 - Fifth*—Persons wilfully failing to attend when summoned to be bound by decision of majority present
 - Sixth*—Treatment of parceners not joining in settlement
 - Seventh*—Rates of rent of cultivating proprietors of lands of which revenue collected *khass* or farmed
 - Eighth*—Liability for default of non-engaging parceners when settlement of *mahal* made with one or more of them as *sedar nelya ar*
 - Ninth*—Parcels separately owned and occupied may be separately settled
Power to partition and to settle separately with each proprietor
 - Tenth*—Proprietors excluded from engagements may have their names registered

SECTION.

11. Collectors forming such registry to proceed on basis of actual possession.
12. *First*.—In estates held under *pattidari*, *bhaiya*, *chāra* or like tenure Collectors may re-allot revenue and charges payable by several parcēners.
Second.—And in certain cases may make fresh partition of land.
Cases in which parties affected by Collector's decision may contest it in Court.
On what points Revenue-officer's decision conclusive.
13. Collectors not to disturb possession unless specially authorized.
14. *First*.—Collectors making or revising settlements may declare nature and extent of interests of persons occupying land.
Second.—Cognizance of claims to larger profits, or larger share of village, than hitherto.
Third.—Maintenance by Courts of decisions of Revenue-officers.
Bar to interference by Courts.
Fourth.—Cognizance by Collectors of complaints of wrongful dispossession.
Adjustment of disputes as to possession.
Fifth.—Cases to which foregoing provisions apply.
15. In settling resumed *mahals* Collectors may take cognizance of claims to property therein.
And may give possession to parties appearing to have best title.
Limitation of rule.
16. Power to grant to Collectors making or revising settlements special authority to take cognizance of claims to property and possession of land.
17. Power to take cognizance of claims to property in lands held *lakhiraj*, or at a *mukarrari jama*, under valid tenures, and to settle with proprietors on behalf of *lakhirajdar* or *mukurraridar*.
18. Collectors to be judges of question of jurisdiction.
19. *First*.—Collectors authorized to summon witnesses and require production of accounts.
Second.—Rules of Regulation 2, 1819, applied to process issued by Collectors.
Also to *patwaris* and others summoned or examined.
Powers of Collectors.
Rules applied to other persons upon whom process may be issued.
20. *First*.—Powers ordinarily vested in Collectors making or revising settlements.
Second.—Appointment of Collector to discharge above duties, how notified.
Third.—Limitation of time for preferring complaints specified.
21. Rules for guidance of Collectors; their powers.
22. (*Repealed*.)
23. *First*.—Collector's *cutcherry* held a Civil Court.
Second.—Suits to contest Collector's decisions held to be appeals from summary awards.
Third.—Collectors authorized to execute their awards.
24. *First*.—Collectors authorized to depute Native officers to make inquiries preparatory to settlement.
Second.—Punishment of resistance or obstruction of process or order of Collector.
Third.—Police-officers to aid execution of process and orders of Collector.
25. (*Repealed*.)
26. Pleadings required.
27. (*Repealed*.)
28. Collectors may try and determine suits in any part of their districts.
29. *First*.—Appeal to Board.
Procedure on such appeals.
When Board may direct new trial or interpose to correct neglect or delay.
Second.—Pleadings required in appeals to Board.
Third.—No *mukhtarnama* required for same agents re-employed.
Fourth.—Respondent to receive notice, but not required to appear.
Fifth.—Board's decision how far final.
Sixth.—But decision of Board and Collector may be contested by regular suit.

SECTION

- 30 Parties having claims cognizable by Collectors, and not wishing summary trial, may in first instance bring regular suit
- 31 *First*—On appeal against Collector's decision his proceedings to be on record.
Second—No such appeal cognizable by, or referable to, any *Munsif*.
- 32 Periodical reports by Collectors to Boards
- 33 *First*—Collectors authorised to refer certain cases to arbitration.
 Force of awards passed on such reference
Second—Matter of arbitrament to be distinctly specified in Collector's proceedings
Third—*Kanungos* and *tahsildars* may be employed as arbitrators
- 34 *First*—Power of Collectors to interfere in cases of disputed possession;
 and to give possession to one of the contending parties }
 Collector may attach disputed lands, etc
Second—Reference of disputes by Magistrates to Collector. {
Third—Collector to encourage arbitration
- 35 "Board of Revenue"
 Rules regarding Collectors to apply to officer exercising authority of Collector,

BENGAL REGULATION 7 of 1822.

(THE BENGAL LAND REVENUE SETTLEMENT REGULATION, 1822) [1]

(8th August, 1822)

A Regulation for declaring the principles according to which the settlement of the land-revenue in * * * [2] Cuttack, Pataspur and its dependencies is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; * * * [3] for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue-authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.

1. *Whereas the existing settlement of the land revenue in the Ceded Provinces will expire with the present Fash year* [4], *and it has therefore*

[1] **SHORT TITLE**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see *post*, p 689

LOCAL EXTENT—This Regulation, as originally passed extended to the district of Cuttack—see the concluding paragraph of s 1, *post*, p 233 It has been declared, by notification under the Scheduled Districts Act, 1874 (1 of 1874), s 3, to be in force in the following scheduled Districts, namely —

the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum in the district of Singbhum, in the Chota Nagpur Division—see Vol IV, Part III

It has since been applied—

- (1) Alluvial Land Settlement Act, 1853 (31 of 1853)
- (2) Land Revenue Survey or local inquiry is made under the Land Revenue Act, 1859 (11 of 1859), and to estates held by Government under that Act—see s 60

- (3) Tenures Act, 1859 (Ben Act 2 of 1859)—II of this Code

Section 2 (6) and ss 3 to 35 of the Regulation have also been extended, by the Bengal Land revenue Settlement Regulation, 1825 (9 of 1825) s 2 *post*, p 290, to—

- (1) all lands not included within the limits of estates for which a permanent settlement had been concluded in the manner prescribed by the Bengal Decennial Settlement Regulation, 1793 (8 of 1793—*ante*, p 31),
- (2) all estates held *khass*,
- (3) the hill lands of Bhagalpur, and
- (4) certain forests and wastes, and all estates bordering thereon.

It is further declared by the Bengal Land revenue Settlement Regulation 1825 (9 of 1825) s 3 (*post* p 291), that Collectors or other officers may be invested with the powers specified in s 20 of the present Regulation, and that ss 21 to 35 of the present Regulation shall apply to areas in which this has been done

(Sec. 1.)

become necessary to declare and enact the principles and rules according to which the demand of the State is thereafter to be regulated; and the manner in which future settlements and revisions of settlements are to be conducted^[5].

And whereas a moderate assessment being equally conducive to the true interests of Government and to the well-being of its subjects, it is the wish and intention of Government that in revising the existing settlement the efforts of the Revenue-officers should be chiefly directed not to any general and extensive enhancement of the *jama* but to the objects equalizing the public burthens, and of ascertaining, settling and recording the rights, interests, privileges and properties of all persons and classes owning, occupying, managing or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating

The powers conferred by Bengal Regulation 7 of 1822 and amending enactments on a Collector making a settlement of land-revenue are exercisable also by Commissions appointed under the Village Chāukidari Act, 1870 (Ben. Act 6 of 1870), inquiring into the question what lands were, before the passing of that Act, assigned for the maintenance of an officer appointed to keep watch and report crime to the police—see Bengal Act 6 of 1870, s. 60, in Vol. II of this Code.

The application of Ben. Reg. 7 of 1822 is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 864; and,

the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 832.

PARTIAL REPEAL.—The following portions of Ben. Reg. 7 of 1822 were repealed by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), ss. 2 and 3 (noted), *post*, p. 338, namely:—

(1) “so much as prescribes, or has been understood to prescribe, that the amount of *jama* to be demanded from any *māhal* shall be calculated on an ascertainment of the quantity and value of actual produce, or on a comparison between the costs of production and value of produce,” and

(2) “so much as prescribes, or has been understood to prescribe, that the judicial investigation into and decision on questions of disputed private claims shall be conducted simultaneously with the ascertainment of and determination on the amount of the Government demand.”

SAVING.—Nothing in the Bengal Decennial Settlement Regulation, 1793 (8 of 1793), s. 51 (*ante*, p. 38), or in the Bengal Rent Act, 1859 (10 of 1859), ss. 13, 14 and 17, is to affect settlement proceedings under the present Regulation—see the Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), s. 4, in Vol. II of this Code.

APPLICATION OF BEN. ACT 8 OF 1879.—The Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), applies to certain settlement proceedings under the present Regulation—see Ben. Act 8 of 1879, s. 14, in Vol. II of this Code.

DURATION OF SETTLEMENTS.—As to the period during which Collectors, etc., are to be considered to be engaged in making and revising settlements under this Regulation, see the Bengal Land-revenue Settlement Regulation, 1828 (4 of 1828), *post*, p. 225.

[2] The words “the Ceded and Conquered Provinces, including,” which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] The words “for continuing, with certain exceptions, the existing leases within the said provinces for a further term of five years,” which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[4] i.e., the 1st September, 1822.

[5] The portion printed in italics is obsolete; Bengal Regulation 7 of 1822 having been repealed in the North-Western Provinces by the N.-W. P. Land-revenue Act, 1873 (19 of 1873).

(Sec. 1.)

the rent or revenue payable on account of land, or the produce of land, or paying or receiving any cesses, contributions or perquisites to or from any persons resident in, or owning, occupying or holding parcel of, any village or *mahal* :

And whereas, with these views and intentions, the Governor General in Council has considered it to be expedient and proper with the exception hereinafter specified, to continue the existing assessment in all cases in which the settlement has been formed with *zamindars* or other persons acknowledged as proprietors or possessors of a permanent interest in the *mahals* for which they may have engaged, until a new settlement can be made, combining, which the revision of the Government *jama* and the deliberate investigation of the facts by the determination of which its amount must be regulated, a full inquiry into, and a careful settlement of the rights and interests of all classes connected with the land :

And whereas the same principles are applicable to the district of Cuttack; [*the pargana of Pataspur and its dependencies*,] of which the settlement will expire with the present "Amli" year^[1] :

And whereas it has appeared expedient to make special provision for the early settlement of * * *^[2] the *pargana* of Pataspur and its dependencies :

* * *^[3].

And whereas it is the desire of Government that the proceedings held, and the records formed, by the Collectors when making settlements or otherwise specially employed in conducting inquiries of the above nature should be such as that all demands, claims and suits may be adjudged and determined according to the facts therein stated, until the same shall have been formally altered, or it shall be shown, by the result of a full investigation in a regular suit, that the proceeding or record of the Collector was erroneous or incomplete :

And whereas it is necessary to declare and define the powers and authority to be vested in Collectors in the conduct of the said inquiries, and the adjustment of the differences arising out of or made known by them :

And whereas it further appears advisable that the revenue-officers should in certain cases be vested with authority judicially to receive,

[1] i.e., the 2nd September, 1822.

[2] The words "the *pargana* of Pataspur and its dependencies," which were repealed by the Repeal Act, 1822, are omitted.

[3] Portion relating to the Province of Bundelkhand, which was repealed by the Repeal Act, 1822, is omitted.

(Sec. 1.)

become necessary to declare and enact the principles and rules according to which the demand of the State is thereafter to be regulated; and the manner in which future settlements and revisions of settlements are to be conducted^[5].

And whereas a moderate assessment being equally conducive to the true interests of Government and to the well-being of its subjects, it is the wish and intention of Government that in revising the existing settlement the efforts of the Revenue-officers should be chiefly directed not to any general and extensive enhancement of the *jama* but to the objects equalizing the public burthens, and of ascertaining, settling and recording the rights, interests, privileges and properties of all persons and classes owning, occupying, managing or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating

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- (1) "so much as prescribes, or has been understood to prescribe, that the amount of *jama* to be demanded from any *māhal* shall be calculated on an ascertainment of the quantity and value of actual produce, or on a comparison between the costs of production and value of produce," and
- (2) "so much as prescribes, or has been understood to prescribe, that the judicial investigation into and decision on questions of disputed private claims shall be conducted simultaneously with the ascertainment of and determination on the amount of the Government demand."

SAVING.—Nothing in the Bengal Decennial Settlement Regulation, 1793 (8 of 1793), s. 51 (*antē*, p. 38), or in the Bengal Rent Act, 1859 (10 of 1859), ss. 13, 14 and 17, is to affect settlement proceedings under the present Regulation—see the Bengal Rent Settlement Act, 1879 (Ben. Act 8 of 1879), s. 4, in Vol. II of this Code.

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[¹] The words "the Ceded and Conquered Provinces, including," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[²] The words "for continuing, with certain exceptions, the existing leases within the said provinces for a further term of five years," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[³] i.e., the 1st September, 1822.

[⁴] The portion printed in italics is obsolete, Bengal Regulation 7 of 1822 having been repealed in the North-Western Provinces by the N.-W. P. Land-revenue Act, 1873 (19 of 1873).

(Sec. 1.)

the rent or revenue payable on account of land, or the produce of land, or paying or receiving any cesses, contributions or perquisites to or from any persons resident in, or owning, occupying or holding parcel of, any village or *mahal*:

And whereas, with these views and intentions, the Governor General in Council has considered it to be expedient and proper with the exception hereinafter specified, to continue the existing assessment in all cases in which the settlement has been formed with *zamindars* or other persons acknowledged as proprietors or possessors of a permanent interest in the *mahals* for which they may have engaged, until a new settlement can be made, combining, which the revision of the Government *jama* and the deliberate investigation of the facts by the determination of which its amount must be regulated; a full inquiry into, and a careful settlement of the rights and interests of all classes connected with the land:

And whereas the same principles are applicable to the district of Cuttack, [the *pargana* of Pataspur and its dependencies,] of which the settlement will expire with the present "Amli" year^[1]:

And whereas it has appeared expedient to make special provision for the early settlement of * * *^[2] the *pargana* of Pataspur and its dependencies:

* * * *^[3].

And whereas it is the desire of Government that the proceedings held, and the records formed, by the Collectors when making settlements or otherwise specially employed in conducting inquiries of the above nature should be such as that all demands, claims and suits may be adjudged and determined according to the facts therein stated, until the same shall have been formally altered, or it shall be shown, by the result of a full investigation in a regular suit, that the proceeding or record of the Collector was erroneous or incomplete:

And whereas it is necessary to declare and define the powers and authority to be vested in Collectors in the conduct of the said inquiries, and the adjustment of the differences arising out of or made known by, them:

And whereas it further appears advisable that the revenue-officers should in certain cases be vested with authority judicially to receive,

[1] i.e., the 2nd September, 1822.

[2] The words "the district of Cuttack" were repeated by the Repealing

[3] Portion relating to "Bundel khand," which was repealed

(Sec. 2.)

hear, investigate and determine suits, claims and demands of the above description:

And whereas it appears to be expedient to declare and explain the views and intentions of Government relative to the rights to be enjoyed and exercised by the *sadar malguzars* or persons admitted to engage for the payment of the Government revenue, and by person-collecting the rents of the land or revenue of Government, without being subject to the payment of any portion of it to the public treasury, such as *jagirdars* and other owners or managers of *lakhiraj* lands; and it is particularly necessary, in the case of estates held in *pattidari* or *bhaya chára* tenure, to make further provision for protecting the shares who have not been admitted to engagement with Government against the encroachments of the *sadar malguzar*, and likewise to secure the latter against the consequences of the embezzlement or misappropriation by the former of the fund whence the Government revenue ought to be discharged;

For the purposes and objects above specified the following rules have been enacted, to be in force * * *^[1] in [the district of Cuttack,] the *pargana* of Pataspur and its dependencies.

2. *First to Fifth.* (*Extension of existing settlements in Ceded Provinces and Cuttack; proclamation of proposed extension; Gorakhpur and Azamgarh excluded; existing leases in Pataspur to continue from year to year.*) Rep. by the Repealing Act, 1874 (16 of 1874.)

General rule relative to zamindars holding on after expiration of their leases.

Sixth. * * * *^[2] if any *zamindar* or other *malguzar* ^[3][acknowledged as the proprietor or possessor of a permanent interest in the *mahal* for which he has engaged], who may now or hereafter be under engagement for the payment of the revenue demandable by Government on account of any *mahal*, shall be allowed by the Revenue authorities to continue in the management of such *mahal* after the expiration of such engagement, and shall do or direct any act relative to the cultivation or management of such *mahal*, or the settlement, assessment or collection of the rents of such *mahal*, in or on account of any year subsequent to the term of such engagement, such *zamindar* or other *malguzar* aforesaid shall be held to be responsible on account of such year for the same revenue as may have been demandable from him for the year preceding, unless otherwise specially agreed upon:

[¹] The words "from the date of their promulgation, throughout the Ceded and Conquered Provinces," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[²] Formal words which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[³] These words in square brackets in s. 2 (6) were substituted for the words "as aforesaid" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 705.

(Sec. 2.)

Provided further that it shall be competent for Collectors or other officers exercising the power of Collection and the members of the Board^[1] or Commissioners to whom they may be subordinate, at any time, not being more than six months previous to the expiration of a settlement, to call upon the proprietors to file a statement in writing to declare whether or not they are willing to surrender their rights for the ensuing year: and if such proprietors so file a statement shall not forthwith comply therewith it shall be lawful for the Collector to have agreed to such an extension of their lease in the settlement agreement, and so on, from year to year as aforesaid.

Zamindars or other proprietors who may be liable to pay for any year to year shall not be chargeable with any additional payment on account of any year, unless the Collector or other officer exercising the powers of Collection^[2] shall notify the proprietors to pay a sum of money on or before the commencement of such year as may be specially provided.

3. With respect to estates which are in possession of a tenant, the amount thereof shall be made on the expiration of the settlement for such a period as the Local Government may direct.

A preference shall be given in the settlement of the payment of a permanent property in the tenure of holding a permanent payment of the public revenue on hereditary tenure.

Provided also that, in cases wherein such a tenant may be liable for the term of the lease granted to the tenant, the term shall be as follows:

The above rules shall apply to all estates which are liable to refuse to continue their existing engagements, on equal terms, in the engagements of the authorities to let the lands in lease for any period of years, as the Local Government may direct, or to the direct management of them, or to any other mode of management during the period allowed or fixed in the regulations for the proper:

Provided further that it shall be competent for the Local Government authorities that the conditions of the settlement shall be as follows:

[1] As to the extent of the powers of the Local Government, see the post, p. 267.

[2] As to the extent of the powers of the Local Government, see the references cited in the post, p. 267.

[3] The words "Local Government" in the regulations for the settlement of 1903 (1 of 1903), Sec. II, post, p. 267.

(Secs. 4-5.)

talukdar or other person who may have engaged, or may claim to engage, for any *mahal* or *mahals*, in or to the management of such *mahal* or *mahals*, would endanger the public tranquility or otherwise be seriously detrimental, it shall be their duty to report the circumstances to Government, and it shall be competent to the [1][Local Government,] [2][by notification in the local official Gazette], to cause such *mahal* or *mahals* to be held *khass* or let in farm, for such term as may appear expedient and proper, not exceeding the period above specified.

Admission of particular persons to engage for payment of revenue, not to bar Revenue-officers from interfering to adjust rights of other persons or classes.

4. In admitting particular parties to engage it was in no degree the intention of Government to compromise private rights or privileges, or to vest the *sadar malguzars* with any rights not previously possessed by them, excepting in so far as their interest in the land for which they may have engaged might be improved by the limitation of the Government demand, or otherwise by the resignation in their favour of rights previously vested in Government itself, or as it may have been found necessary, with a view to the punctual realization of the public dues, to vest the *sadar malguzar*, by special Regulation, with authority of distraint, or other powers of coercion over the under-tenants.

On the contrary, it is the anxious desire of Government, and the bounden duty of its officers, to secure every one in the possession of the rights and privileges which he may lawfully possess or be entitled to possess.

In pursuance of this principle, it is hereby declared and enacted that nothing in the above provisions for extending the existing leases, or in the stipulations of the existing settlements, do or shall be construed to bar the Revenue-officers, duly empowered in that behalf, from interfering to adjust the respective rights of the *sadar malguzars* and their under-tenants; nor shall any claims to a remission or abatement of revenue be admitted on the ground of any decision or order passed in that behalf; but, if such decision or order shall operate materially to reduce the profits derived by any *zamindar* or *malguzar* from the *mahal* owned or managed by him, it shall be competent for such *zamindar* or *malguzar* to relinquish his engagements, and the Revenue-officers shall in such case proceed to make a settlement of the *mahal de novo*.

5. (First.—*Repeal of provisions relative to malikana and nankar.*)
Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

[1]—The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 705.

[2]—The words "by an Order in Council," in the original text, are to be read as if the words "by notification in the local official Gazette" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 705.

(Sec. 5.)

[¹]Second.—The proprietors of estates let in farm or held *khas* shall be entitled to receive an allowance of *malikana*, at such rate as the Board^[2] * * [³] or other authority exercising the powers of that Board^[2] may determine, anything in the existing Regulations notwithstanding: the said *malikana* to be apportioned in cases in which several proprietors may have heretofore held an estate under one common assessment, whether in joint tenancy or otherwise, according to the shares of each respectively:

Malikana to be allowed proprietors of estates farmed or held *khas*.

Provided also that the *malikana* allowance granted to the proprietor or proprietors of any *mahal* shall not in any case be less than five *per cent.* on the net amount realized by Government from the lands; nor shall it exceed ten *per cent.* on that amount without the special sanction of the [⁴][Local Government]:

Provided further that, if the said proprietors shall in any case be in the receipt of any perquisite or the profits of any lands in lieu of the *nankar* formerly granted to them by the Native Governments or otherwise, in consideration of their proprietary tenure, the amount of such allowance shall be deducted from the *malikana* to which they are by this section declared to be entitled:

Provided also that this rule shall not apply to such *zamindars* as may continue in the occupancy of their tenures whilst the *mahal* in which they are included is held *khas* or farmed, or of any part of them, that is to say, *zamindars* who may cultivate or lease their lands and pay the revenue to the farmer or Government officer; nor, without the special sanction of Government, to any *malguzar*, *zamindar* or other proprietor or holder of land who may directly or indirectly continue to draw any allowance from the *raiya*ts of the lands farmed or held *khas*:

Provided also that *malguzars*, not being actual proprietors of the land included in the estate for which they may have formerly been under engagements, though recorded in the accounts of past settlements as *zamindars*, *talukdars* or the like, or being proprietors of a part only of such land, shall not receive the above allowance on the *jama* of the estate, but shall receive such allowance in lieu of their title of manage-

[¹] For an explanation of the rules in s. 5 as to *malikana*, see the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 11, *post*, p. 339.

[²] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[³] The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[⁴] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 705.

(Sec. 7.)

the rules contained in the preceding section, it shall and may be lawful for him, subject to the orders of the Board^[1] * * *^[2] and of Government, to grant to the proprietors, if willing to engage on adequate terms, renewed leases for such further term of years subsequent to the year 1234^[3] *Fasli* or *Amli* as the ^[4] [Local Government] may direct.

Jama for years subsequent to 1234, how adjusted.

Second.—The assessment to be demanded on account of the years subsequent to the year 1234 *Fasli*^[3] to which leases renewed as above may extend, shall be fixed with reference to the produce and capabilities of the land as ascertained at the time when the revision of the settlement shall be made^[5] unless under special circumstances justifying a prospective enhancement of the Government demand:

Provided also that the amount of such assessment shall not be raised above that of the present *jama*, unless it shall clearly appear that the net profits to be derived from the land by the *zamindars* and others who may be entitled to share in the profits arising out of the limitation of the Government demand will exceed one-fifth of that amount; and, in cases wherein any increase may be demanded, the assessment shall be so regulated as to leave the *zamindars* and others aforesaid a net profit of twenty *per cent.* on the amount of the *jama* payable by or through them respectively: no abatement on the existing *jama* will be allowed unless on the clearest grounds of necessity.

Pattas granted on revised settlement to cover only lands specified.

Third.—The *pattas* granted on such revised settlements shall be held only to secure the *malguzars* from further demand during the term of their respective leases, on account of the lands specified in it, or described in the settlement *rubakari* of the Collector^[6] with such allowance for error as may be distinctly declared at the time of settlement.

Zamindars and other persons entering into engagements will be required therefore to afford the fullest and most correct information in regard to the *raqba* of the *mahals* for which they may engage.

Fourth.—(Grant of renewed leases in Conquered Provinces and Bundelkhand.) Rep. by the Amending Act, 1903 (1 of 1903).

[¹] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[²] The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[³] i.e., A.D. 1826.

[⁴] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 705.

[⁵] As to the partial repeal of this provision by the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 2, see foot-note on p. 234, *ante*.

[⁶] As to the exercise of the functions of Collectors by other officers, see s. 35, *post*, p. 267.

(Secs 8 9)

Fifth—If any *zamindar* or other *sadar malguzar*, the settlement of whose estate may be revised under the above rules, shall refuse to enter into suitable engagements for a further period beyond the term of the then current lease, or if after such revision the Revenue authorities shall under any other circumstances deem it expedient to postpone taking further engagements for the payment of the revenue of any *mahals* until the expiration of the current leases, it shall be competent to them to do so, and in such case the several rules contained in section 3 of this Regulation, relative to estates of which the settlement will expire with the present year, shall on the expiration of the said leases be and be held applicable to such *mahals*.

Power to
postpone
final
settlement
until
expiration
current
leases.

Sixth—The same rules shall also be applicable to the several *mahals* within * * * [1] the *pargana* Pataspur and its dependencies, as they may respectively become, or be declared, open for re settlement

Rules apply
to estates in
Corakipur
etc

8 Where the waste land belonging to or adjoining any *mahal* is very extensive, so as considerably to exceed the quantity required for pasturage, or otherwise usefully appropriated, it shall be competent to the Revenue officers to grant leases for the same to any persons who may be willing to undertake the cultivation in perpetuity, or for such periods as the [2] [Local Government] shall determine, and to assign to the *zamindars* or others who may establish a right of property in the lands so granted an allowance equivalent to ten *per cent* on the amount payable to Government by the lessees in lieu and bar of all claims to or in the waste lands so granted, or such other perquisites or privileges as by the custom of the country they may appear in such cases entitled to receive

Letting of
excess
waste-lands

Allowance
zamindars

[3] 9 *First*—It shall be the duty of Collectors [4] and other officers exercising the powers of Collectors on the occasion of making or revising settlements of the land revenue, to unite, with the adjustment of the assessment and the investigation of the extent and produce of the lands, the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests and privileges of the various classes of the agricultural community

Investiga-
tions by
Collectors
making or
revising
settlements

For this purpose their proceedings shall embrace the formation of as accurate a record as possible of all local usages connected with landed

[1] The words "the district of Gorakhpur the *chakla* Azamgarh which were repealed by the Amending Act 1903 (1 of 1903) are omitted

[2] The words "Governor General in Council" in the original text are to be read as if the words "Local Government" were substituted therefor—see the Amending Act 1903 (1 of 1903) Sch II *post*, p 705

[3] As to the partial repeal of s 9 by the Bengal Land revenue (Settlement and Deputy Collectors) Regulation 1833 (9 of 1833) s 3 see foot-note headed "Partial Repeal" on p 234 *ante*

[4] As to the exercise of the functions of Collectors by other officers, see s 35 *post*, p 267

(Sec. 9.)

tenures, as full as practicable a specification of all persons enjoying the possession and property of the soil, or vested with any heritable or transferable interest in the land or the rents of it, care being taken to distinguish the different modes of possession and property, and the real nature and extent of the interests held, more especially where several persons may hold interests in the same subject-matter of different kinds or degrees.

This record shall, in *pattidari* or *bhaiya chára* villages or the like, include an accurate register of all the co-parceners, not merely the heads of divisions, such as the *pattis*, *thoks* or *behris*, but also as far as possible of every person who occupies land, disposes of its produce or receives rent as proprietor or as agent for one or more proprietors holding land and disposing of its produce, or receiving the rents of it in common, with a detailed statement of the interior arrangements adopted by the brotherhood for the distribution of the profits derived from sources common to the co-parcenership where any such exist, and for determining the share of the Government *jama* and of the village-expenses which each parcener is to contribute, or the other modes in which the engaging parcener or intermediate *pattidars* and *behridars* collect from the cultivators.

A record shall likewise be formed of the rates per *bigha* of each description of land or kind of produce demandable from the resident cultivators not claiming any transferable property in the soil, whether possessing the right of hereditary occupancy or not, and the respective shares of the *sadar malguzar* or other manager, and the cultivator, in lands cultivated under *kankut*, *batai* or similar engagements, with a distinct specification of all cesses or extra collections made by the *malguzar* or village-manager, or other.

The names of all the village-*patwaris* and village watchmen shall also be registered, with a statement of the amount and nature of the allowance assigned them.

And all *lakhraj* tenures shall be carefully recorded, with a specification of the nature of the tenure.

The information collected on the above points shall be so arranged and recorded as to admit of an immediate reference hereafter by the Courts of Judicature, it being understood and declared that all decisions on the demands of the *zamindars* shall hereafter be regulated by the rates of rent and modes of payment avowed and ascertained at the settlement, and recorded in the Collector's proceedings until distinctly altered by mutual agreement, or after full investigation in a regular suit: and all cesses or collections not avowed and sanctioned, nor taken into

(Sec. 10.)

account in fixing the Government *jamia*, shall be held illegal and unauthorized, unless now or hereafter specially sanctioned by Government.

Second.—Provided also that it shall be competent to Collectors^[1] and other officers as aforesaid (subject to the orders of the Board^[2] * * [2]) to grant *pattas* to the several *mufassal zamindars* and *raiya*ts or other owners or occupants of land, for the land owned or occupied by them, specifying the amount to be paid by them, and all the conditions attaching to their tenure; and a register of all *pattas* so granted shall form a part of the *rubakari* of settlement.

Third.—Provided, however, that, if from the number of estates of which the leases may at once expire in any district, or from any other special cause, it shall be found necessary, for the security of the Government revenue, to take engagements from any *zamindar*, *malguzar* or farmer, without completing the detailed inquiries above directed, it shall be competent to the [4] [Board] of Revenue [2] or other authority exercising the powers of [5] [that Board] to cause engagements for the revenue to be taken in the manner heretofore in use, reporting the circumstance to the [6] [Local Government], but the term of the engagements so taken shall not exceed five years, and the rules relative to the revision of the settlements of *mahals* of which the existing leases have been extended under the provisions of section 2 of this Regulation shall be equally applicable to estates for which such engagements shall be taken.

10. *First.*—Of several parties possessing separate heritable and transferable properties in any parcel of land or in the produce or rent thereof, such properties consisting of interests of different kinds, it shall be competent to the [7] [Local Government] to determine and direct which of such parties shall be admitted to engage for the payment of the Government revenue, due provision being made for securing the rights of the remaining parties.

It is further hereby declared and enacted that it is and shall be competent to the [8] [Local Government] in confirming the settlement

[1] As to the exercise of the functions of Collectors by other officers, see s. 35, post, p. 267.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see s. 10 of the Bengal, A. and N. W. Provinces, and Orissa Board of Revenue Act, 1913 (B. and O. Act, No. 10 of 1913), which were repealed by the Repealing Act, 1874.

which were repealed by the Repealing Act, 1874.

used for the word "Boards" by the Amending Act, p. 706.

substituted for the words "such a Board" by II—see post, p. 706.

in Council," in the original text, are to be read as substituted therefor—see the Amending Act,

(Sec. 10.)

to engage,
and to
prescribe
distribution
of profit
resulting
from limita-
tion of *jama*.

of any *mahal* in perpetuity or for a term of years, to determine and prescribe the manner and proportion in which the net rent or profit arising out of the limitation of the Government demand shall be distributed among the different parties possessing an interest in the lands appertaining to such *mahal* or in the rent or produce of such lands or *mahal*.

Mufassal
settlements in
cases where
title of
intermediate
manager
between Gov-
ernment and
proprietors or
hereditary
occupants of
soil are
maintained.

Second.—In cases wherein any land appertaining to a *mahal* hitherto recognized as the *taluk*, *zamindari* or the like, of one or more *sadar malguzars*, may be owned or occupied by other persons holding under the *sadar malguzar* and possessing an heritable and transferable property therein or an hereditary right of occupancy subject to the payment of a fixed rent, or of a rent determinable by a fixed principle, if the title of the said *sadar malguzar* to engage for the revenue be upheld, and generally in cases wherein the tenure of an intermediate *malguzar* or manager between the Government and the proprietors or hereditary occupants of the soil may be maintained, whether the Government revenue be collected from the *zamindar*, *talukdar* or other hereditary intermediate *malguzar*, or the *mahal* be farmed or held *khas*, it shall be competent to the Collector^[1] or other officer who may be employed in adjusting the *jama* to be assessed on such *mahal*, with the sanction of the Board^[2] previously obtained and subject to the orders and directions of that authority, to make a *mufassal* settlement with each of the proprietors or occupants aforesaid for the land possessed by him, and to grant such proprietors or occupants *pattas* defining the conditions on which they are to hold their land, whether subordinate to the *sadar malguzar* or to the farmer or officer of Government employed in the *khas* management; and in all such cases, if engagements for the Government revenue of the *mahal* be taken from the intermediate hereditary *malguzar*, the particulars of the *mufassal* settlement, when approved by the Board^[2], shall be endorsed on the *patta* to be granted to the *sadar malguzar*, or shall be so incorporated with the engagement taken from him as to form part of the same.

Settlement
where
several
persons
hold
common
property
subject to
common
obligations.

Third.—In cases in which two or more persons may possess a joint property in any village, *mahal* or parcel of land, or in the rent or produce of any village, *mahal* or land, or in any part of such village, *mahal*, land, rent or produce, the property of such persons consisting of interests of the same kind, whether of the same extent or otherwise, as well as in cases wherein such property in any *mahal*, village, land

[1] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 267.

[2] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

(Sec 10)

produce or rent may be separately possessed by parties subject by prescriptive usage to common obligations, whether existing or contingent, it shall be competent to the Collector or other officer exercising the powers of Collector^[1], subject to the orders and directions of the Board^[2] and of the ^[3][Local Government], either to make a joint settlement with the parties collectively or a majority of them, or with an agent appointed by them or a majority of them, or to select one or more of them to undertake the management of the *mahal* as *sadar mal guzars*, due advertence being had to the wishes of all the co parceners, and to the past custom of the village or villages comprised in the *mahal*.

Fourth —When it shall be determined to make a joint settlement for any village, *mahal* or parcel of land with the parties possessing therein a joint property as aforesaid, the Collector or other officer^[1] making the settlement shall give notice of his intention, by a written proclamation to be stuck up in some public place within the village, *mahal* or land, and shall require all persons possessing therein a property as aforesaid to attend, either in person or by representative duly authorized in the matter, within a reasonable period, at a stated place and time, and to declare their agreement or non agreement to the *jama* proposed to be assessed on the village or land

When joint settlement to be made, parties how summoned.

Fifth —If any person or persons, when summoned as above, shall refuse, neglect or omit to attend, either in person or by representative, such person or persons shall be held to be bound by the decision of the majority of those who may attend, in agreeing or disagreeing to the *jama*, and his or their interests and estate shall, unless otherwise specially allowed, be held responsible for the Government revenue, and be liable to sale in the event of any arrear accruing on account of the settlement

Persons wilfully failing to attend when summoned to be bound by decision of majority present.

Sixth —If any person or persons shall attend and shall object to the *jama* proposed to be assessed, then, should a settlement be made with the other parties present, the objecting parties shall be left in the enjoyment of the same rights and interests as they would enjoy in the event of the *mahal* being farmed or held *khass* and, in so far as regards the lands to which such rights and interests attach, the other parceners, if their engagements be extended thereto, shall be considered farmers of the Government revenue to hold the same under leases of such term as

Treatment of parceners not joining in settlement

[1] As to the exercise of functions of Collectors by other officers see s 35 post p 267

[2] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913) s 3 in Vol III of this Code

[3] The words 'Governor General in Council' in the original text, are to be read as if the words 'Local Government' were substituted therefor—see the Amending Act, 1903 (1 of 1903) Sch II post, p 705

(Sec. 10.)

may be determined and agreed upon under the general rules applicable to lands for which the proprietors may refuse to engage.

Rates of
rent of
cultivating
proprietors
of lands of
which
revenue
collected
has or
formed.

Seventh.—When any *mahal* or portion of a *mahal*, held by a number of cultivating proprietors in *pattidari* or *bhaiya chāra* tenure or the like, shall be let in farm or held *khas*, the rent demandable from the proprietors of such *mahal* or portion of *mahal*, on account of the land occupied and cultivated by themselves, shall be adjusted by the rates payable by *raiyats* or other resident cultivators not having an heritable and transferable property in the soil, for lands of a similar description in the same or in the adjoining villages, with a deduction of five *per cent.*, on account of *malikana*, or such other rate, not being less than five *per cent.*, as Government may determine.

Liability for
default of
non-engaging
parceners
when
settlement
of *mahal*
made with
one or more
of them as
sadar
malguzar.

Eighth.—When it shall be determined to make a settlement of a *mahal* of the above description with one or more of the parceners selected to manage, collect and account for the public revenue as *sadar malguzar*, then and in that case the interests of the non-engaging parceners shall not be held answerable for the default of the *sadar malguzars*, save and except in so far as may be specifically provided.

Such parceners shall, until regularly separated, continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue to the *sadar malguzar* at the rates and in the mode heretofore in use, excepting in so far as that usage may be affected by the determination of Government in regard to the distribution of the net rent or profit derived from the limitation of the Government demand, or by the rules now in force or hereafter to be enacted, for vesting the *sadar malguzars* with specific powers over the subordinate tenants in the collection of the rent or revenue demandable from them.

The responsibility attaching to the persons selected as *sadar malguzars* and the conditions under which they are to hold that title of management will in each case be specifically declared at or after the time when the settlement is confirmed.

The conditions and limitations under which the subordinate proprietors shall be admitted to separate engagements will also be similarly declared.

Parcels
separately
owned and
occupied may
be separately
settled.

Ninth.—Provided further that, in all cases wherein different parcels of land belonging to any *mahal* may be separately owned and occupied by different proprietors or by different bodies of proprietors, it shall be competent to the [1][Board] of Revenue or other authority exercising

[1] This word "Board" in s. 10 (9) was substituted for the word "Boards" by the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 706.

(Secs 11-12)

the powers of that Board^[1] to cause a separate settlement to be made for the land owned and occupied by each proprietor or by each body of proprietors, and each parcel of land for which a separate settlement may be so made shall be held exclusively responsible for the revenue assessed upon it.

Provided also that, if the several parties possessing a joint property or separate properties subject to a common obligation as aforesaid, or any of them, shall apply to a Collector or other officer^[2] making or revising a settlement to have separate possession of their several share or shares in such joint property, or to be admitted to separate engagements, it shall be competent to such Collector or other officer,^[2] with the sanction of the Board^[1] or other authority to which he may be subordinate, to make a partition of the property among the different parties according to their respective interests, and to make a separate settlement with each of them or with such as may desire to enter into separate engagements

Power to partition and to settle separately with each proprietor

Tenth —In all cases wherein any proprietors may be excluded from engagements the Collector^[2] shall be careful to let it be known that all persons possessing a property in the *mahal* are entitled to have their names recorded in the *rubakari* of settlement, with the amount or rate of the assessment demandable from each

Proprietors excluded from engagements may have their names registered.

11. First —The Collector's^[2] proceedings in forming the registry above directed shall be founded on the basis of actual possession, and that officer shall, in every instance, be careful to record the precise nature of the authority on which the entries in his books may be made

Collectors forming such registry to proceed on basis of actual possession

In conformity with the above principle it shall be competent to the Collectors^[2] or other officers when making or revising settlements, or otherwise deputed to investigate and determine the circumstances of any *mahal*, and the nature of the tenures connected with it, to correct the errors or omissions of former settlements by admitting to engagements or entering on the public records the names of the persons found in the *bonâ fide* possession of land or in the receipt of rent under a proprietary title, and in such cases the Collector^[2] will hold an official proceeding, explaining fully the grounds on which he may act

[2] 12 First —In cases in which the proportion of the Government *jama* and village expenses payable by each proprietor and by each body of proprietors comprised in the several *pattis*, *behris* and other divisions

In estates held under *pattidari* *bharys chdra* or *le* tenure, Collectors

her authorities, see Act, 1913 (H) and

35 post p 267
10 (Settlement and
e headed Partial

(Sec. 12.)

may re-allot
revenue and
charges
payable by
several
parceners ;

of an estate held under *pattidari* or *bhaiya chāra* tenure or the like may have been originally fixed on a measurement of the lands occupied by each, with reference to the quantity in cultivation, and may be liable by the usage of the country to periodical adjustment on the same principle, if the Collector^[1] or other officer making or revising the settlement shall be satisfied, by examination of the *patwaris'* accounts or otherwise, that the contributions paid by any proprietor, or body of proprietors as aforesaid are materially in excess of the amount justly demandable from them, it shall be competent to him, with the previous sanction of the Board,^[2] to cause a new distribution to be made of the revenue and charges payable by each, with reference to the above principle, and to such resolutions as Government may have passed relative to the apportionment of the net rent or profits arising out of the limitation of the Government demand, and in the performance of this duty to employ the *kanungo*, and such person or persons as he may judge it advisable to appoint, and to settle the *jama* payable by the different parties according to the award of such person or persons, or otherwise as shall appear to be just and equitable.

and in certain
cases may
make fresh
partition of
land.

Second.—In like manner, in cases in which the several proprietors shall be entitled not only to an adjustment from time to time of the *jama* payable on account of the lands occupied by them, but likewise to a periodical partition of the lands of the village, with reference to the share recorded as belonging to each, it shall be competent to the Collector^[1] to cause a fresh partition of the lands and adjustment of the *jama* to be made as above prescribed, and at the same time to fix and declare the period from which the arrangement as finally settled is to have effect, and to adjust the claims of the parties relative to the revenue intermediately paid by them, as may appear equitable:

Provided, however, that no such partition or adjustment shall be final until confirmed by the Board^[2] * *^[3] or other authority exercising the powers of that Board:^[2]

Cases in
which
parties
affected by
Collector's
decision may
contest it in
Court.

Provided also that, if any parties shall dispute the existence of the usage under which the partition of the lands shall have been made, and shall claim to be restored to possession of the lands which the Collector^[1] may have transferred to another, or shall consider himself entitled to

[¹] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 267.

[²] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[³] The words "of Commissioners," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Secs 13 14)

the benefit of a new partition of the lands comprised in the *malal* to which he may belong, in any case in which the Collector^[1] may have refused to order it, it shall be competent to the said party to bring a regular suit in the *Zila* Court against the person or persons to whom the land may have been transferred, or the person or persons who may resist the partition, to try the justness of the Collector's^[1] decision, but, if the existence of the usage shall be admitted or established, it shall not be competent to the Courts of Judicature to question the accuracy of the partition of the land or adjustment of the *jama*,

On what points revenue officer's decision conclusive.

and, whenever the decision of a Collector^[1] for the partition of any land shall be set aside, it will of course belong to the Revenue authorities to re adjust the *jama* with reference to the interests of the parties as defined and settled by the final decision of the Courts of Judicature, and to the conditions of the tenure, and to any general or special resolution of Government relative to the distribution of the net rent or profit arising out of the limitation of the public assessment

13 Collectors^[1] and other officers exercising the powers of Collectors shall not, unless where specially authorized in the manner prescribed in this or some other ^[2][law], do any act tending to disturb possession, but shall leave the *Adalat* to investigate in a regular suit all claims of persons not in possession but deeming themselves entitled to be so

Collectors not to disturb possession unless specially authorized.

[³]14 First —Collectors^[1] making or revising settlements shall, in cases in which any dispute may exist in regard to the nature of the tenure of any person occupying the soil, be competent to declare in an official proceeding, to be incorporated in the *rubakari* of settlement the nature and extent of the interests actually possessed by such occupant, referring to the denomination heretofore applied to him only as one means of proof in regard to the nature of the interest, but stating at length, with specification of any examination he may take for his satisfaction, the grounds of his determination,

Collectors making or revising settlements may declare nature and extent of interests of persons occupying land

so also in cases of dispute regarding the extent of the interest belonging to any sharer in a village or villages held under *pattidari*, *bharya chára* or the like tenure, such sharer having actual possession of a portion of such village or villages, or being in the actual receipt as proprietor of a share of the joint profits of the land, it shall be competent to the Collector^[1] to decide the point in the first instance in his *rubakari* of

[] As to the exercise of functions of Collectors by other officers see s 35 post p 267

[¹] The word law in s 13 was substituted for the word Regulation by the Amending Act 1903 (1 of 1903) Sch II—see post p 706.

[³] As to the partial repeal of s 14 by the Bengal Land revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s. 3, see foot note headed 'Partial Repeal' on p 234, ante

(Secs. 16-17.)

authorities under this section may, on such suit being fully heard, sued and determined, and not otherwise, be revised, annulled or altered.

Limitation of rule.

The above rule shall not extend to lands held free of assessment under grants made by or at the request of the proprietors themselves or their representatives, the settlement of which shall ordinarily be made with the parties in possession, if willing to engage on adequate terms.

Power to grant to Collectors making or revising settlements special authority to take cognizance of claims to property and possession of land.

16. It shall be competent to the [¹][Local Government] to grant to a Collector[²] making or revising the settlement of any *mahal*, whether the same may have been held by a *lakhiraj* tenure resumed, or being *malguzari* may have become open to re-settlement in ordinary course, special authority to hear, try and determine as above all claims to the property and possession of the lands lying within such *mahal* or the rent or produce thereof, and to give possession to the party who may appear to have the best title, subject to the orders and direction of the Board[³] and further subject, as above, to the revision of the Zila * * [⁴]. Court on a regular suit:

Provided also that, whenever special authority may be given to any Collector[²] as aforesaid, notice of the order of Government shall be published by a proclamation within the *mahals* to which the authority so given may extend; and it shall be the duty of the Collectors[²] and the [⁵][Board][³] to see that such proclamation is duly made.

But no decision passed by a Collector[²] under this or any other section whereby such notification is required shall be disturbed by any Court of Judicature, otherwise than after a full and regular investigation of merits, on the plea that proclamation was not made.

Power to take cognizance of claims to property in lands held *lakhiraj*, or at a *mukarrari jama*, under valid tenures, and to settle with

17. It shall be competent to Collectors[²] and other officers engaged in making or revising the settlement of any *pargana*, *mauza* or other local division, on the application of persons claiming a right of property in lands held free of assessment, or at a *mukarrari jama*, under unquestioned grants from the ruling power, or from the *amils* or other officers of Government, and situate within or adjoining to such *pargana*, *mauza* or other local division, to receive, try and determine the claim; and, if satisfied that the applicants do possess or are entitled to possess an

[¹] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 705.

[²] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 267.

[³] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

[⁴] The words "or Provincial," which were repealed by the Repealing Act, 1874. (16 of 1874), are omitted.

[⁵] This word "Board," in s. 16, was substituted for the word "Boards" by the Amending Act, 1903 (1 of 1903), Sch. II, see *post*, p. 705.

(Secs 18 19)

hereditary and transferable property in the land or the produce or rent thereof, the Collector^[1] or other officer, with the sanction of Government previously obtained, shall be authorized to conclude a settlement with them on behalf of the *lakhirajdar* or *mukarraridar* for such period as the ^{proprietors on behalf of lakhirajdar or mukarraridar} [2] [Local Government] may direct, and shall grant to each of the said proprietors *pattas* defining the conditions on which they are to hold their lands subordinate to the *lakhirajdar* or *mukarraridar*

It shall further be competent to the Collector,^[1] under the orders of the Board,^[2] * * ^[4] to fix and declare the amount of *malikana* or other proprietary allowance to be paid by such *lakhirajdars* or *mukarraridars* to the said proprietors, in the event of their being divested of the occupancy and management of their lands

Provided, however, that either party who may be dissatisfied with the decision of the Collector^[1] as to the question of the right of property shall be at liberty to contest the same in a regular suit in the *Adalat*, but the Court shall not interfere to alter the terms on which the settlement may have been made by the Collector^[1] with proprietors, or the amount of *malikana* granted to such persons

18 The Collector^[1] shall in cases of doubt be the judge of the question of jurisdiction, subject to the orders of the Board^[2] and of Government, and the Courts of Judicature shall not disturb possession given by the Collector ^{Collectors to be judges of question of jurisdiction.} [1] except on a regular suit, and on a decision as to the right

19 First—It shall be competent to Collector,^[1] when prosecuting the above enquiries or hearing and trying the above suits, or otherwise when authorized in that behalf by the Board^[2] to which they may be subordinate, to require all *sadar malguzars* and other persons owning, occupying, managing or cultivating any lands within or in the vicinity of the *mahal* to which their inquiries may extend, or gathering or disposing of the produce thereof, or collecting, enjoying or appropriating any rent or revenue derived therefrom, as well as the *gumastas* or other agents employed by such persons in the management or cultivation of the land, or in the collection of the rent, produce or revenue thereof, to attend and produce all accounts or other papers which they may respectively possess relative to such lands, produce, rent or revenue, and ^{Collectors authorized to summon witnesses and require production of accounts.}

[1] As to the exercise of functions of Collectors by other officers see s. 35 post p 267
[2] The words 'Governor General in Council' in the original text are to be read as if the words 'Local Government' were substituted therefor—see the Amending Act, 1903 (1 of 1903) Sch II post p 705

[3] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913) s 3 in Vol III of this Code

[4] The words of Commissioners, which were repealed by the Repealing Act, 1873 (16 of 1874), are omitted

(Sec. 19.)

to examine the said persons on oath,^[1] or *hdlafnama* to the truth of the accounts produced, or any other matter relating to such accounts, or regarding the lands, produce, rent or revenue of the *mahal* or the rights and interests attaching to such lands, produce, rent or revenue:^[2]

Provided, however, that no person shall be compelled to answer on oath or solemn declaration any interrogation regarding matters wherein he may have an immediate personal interest in concealing the truth, or in uttering what is false, not being an interest arising out of fear, favour or reward, or any corrupt bargain or agreement with another party.

Rules of Regulation 2, 1819, applied to processes issued by Collectors;

Second.—The rules contained in section 11, Regulation 2, 1819,^[3] relative to the mode of serving process on persons who may be required to attend and produce accounts under the provisions of that Regulation, shall be and be held applicable to processes issued by Collectors^[4] or other officers under the rules contained in this Regulation.

also to *patwaris* and others summoned or examined.

In like manner the provisions of section 12 of the said Regulation shall be applicable to all *patwaris*, *gumashtas* or other persons by whom the accounts of any lands, regarding which the said inquiries may have been instituted, may be kept, and who, after being duly summoned as aforesaid, may neglect or omit to produce any of the accounts required from them, or to give their evidence regarding them, or who may deliberately give a false deposition on oath or solemn declaration, when summoned and examined as aforesaid, or who may alter, fabricate, falsify or mutilate the accounts which they may be required to produce:

Powers of Collectors.

Provided further that Collector^[4] and other officers employed in the settlement of the land-revenue, or in any of the inquiries specified in this Regulation, shall be vested with all the powers and authority which are or may be lawfully exercised by Collectors^[4] in cases depending before them under Regulation 2, 1819;^[3] and the rules contained in clause third, sections^[5] 13, 14 and 19 of the said Regulation shall be and be held applicable to all persons who may be summoned by any Collector^[4] or other officer aforesaid, or who may resist the process of a Collector^[4] issued under the rules of this Regulation, or who may refuse to take an oath^[1] or subscribe a solemn declaration when required, or who may deliberately give a false deposition on oath or under a

[1] As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-78, Ed. 1909, p. 385.

[2] As to penalty on landholders for not attending when summoned by the Collector, see the Bengal Landholders' Attendance Act, 1848 (20 of 1848), *post.* p. 351.

[3] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 187.

[4] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 267.

[5] Sic in Clarke.

(Sec. 20.)

and all complaints preferred by raiyats or other under-tenants of whatever description, against landholders or farmers of land, or their respective agents or representatives, on account of excessive demand or undue exaction of rent, whether levied by distraint or otherwise, as well as all suits relative to the adjustment of accounts between landholders and farmers of land or under-tenants of whatever description, with their sureties, or with any agents or persons employed by them in the management of land, or the collection or payment of the rent of land, and to all other matters immediately connected with the demand, receipt or payment of the rent of land, whether malguzari or lakhiraj, or with the rent of orchards, pasture-grounds, and fisheries, commonly denominated phalkar, bankar and jalkar, or with any other asset of the land-revenue not included in the sair abolished, together with all complaints of the non-delivery of pattas when demandable under the Regulations, or complaints of the prescribed receipts not being given for actual payment of rent, and generally complaints of any deviation from the Regulations, or from the established usage of the country, relative to the matters aforesaid, or any violation of subsisting engagements in disputes respecting the rent and occupancy of land between landholders or farmers of land and their under-tenants of whatever denomination.[¹]

Appointment
of Collector
to discharge
above duties,
how notified.

Second.—The appointment of the Collector[²] to the discharge of the above duties, and the extent of the jurisdiction to be assigned to him, shall be notified by proclamation in the district, after such manner as the [³][Local Government] may direct;

*and, after the publication of notice, all summary suits, actions, applications and complaints of the above nature, and referring to lands or the rents, produce or accessions of land lying within the jurisdiction assigned to the Collector as above, which may be preferred in the Zila * * [⁴] Adalat by any sadar malguzar, zamindar, talukdar, farmer, raiyat or other proprietor or under-tenant of land, shall immediately, on being received, be referred for trial to the Collector to whom also all such summary suits depending at the time shall be transferred:*

Provided also that in such cases parties having suits or complaints to prefer, of which the cognizance may be vested as above in the Collec-

[¹] The matter printed in italics seems to be obsolete—see foot-note [¹] on p. 257, *ante*.

[²] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 267.

[³] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 706.

[⁴] The words "or City," in s. 20 (2), which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(Sec. 21.)

tör, shall be at liberty to prefer them to that officer in the first instance.

It shall in like manner be competent to the [1][Local Government] to fix, [2][by notification in the local official Gazette], the period at which the special powers given as above to a Collector, and the authority to be ordinarily exercised by those officers on the occasion of making settlements, shall cease and determine.

Third.—No complaint or application of the nature specified in the Limitation preceding clauses shall be received by a Collector under the rules of this Regulation, unless the plaint or application shall have been pre-ferred within the period of one year after the cause of action shall have arisen. ^{of time for preferring complaints specified.}

21. [3]In summary Suits for rent and the like, wherein special rules have been prescribed for regulating the process of the Courts, the Collectors shall be guided by the same rules, and shall exercise the same powers and authority, as are or may be lawfully exercised by the Zila and City Judges. ^{Rules for guidance of Collectors; their powers.}

In other cases falling under their cognizance according to the provisions of this Regulation, the ordinary process for securing the attendance of the defendant or party otherwise impleaded shall be to issue a notice reciting the matter, and requiring the defendant or other party to attend in person, or by representative, at such time and place as may be made choice of by the Collector[4] for conducting the investigation;

should any party fail to attend after being served with a notice of the above description, or should the return of the nazir or person employed to serve the notice be, that after diligent search the party or parties cannot be found, proclamation shall be made in writing, to be stuck up at or near the ordinary residence of the party, stating that, after 15 days from the date of publishing the same, the case will be liable to be brought up for trial and judgment; and any party implicated, who, having been served with the notice above described, shall fail to attend or who shall continue to absent himself, will be as much bound by the judgment that may be passed as if he or they had been in attendance to plead.

[1] The words "Governor General," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, post, p. 706.

[2] The words "by an Order in Council," in the original text, are to be read as if the words "by notification in the local official Gazette" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, post, p. 706.

[3] The matter printed in italics seems to be obsolete—see foot-note [1] on p. 257, ante.

[4] As to the exercise of functions of Collectors by other officers, see s. 35, post, p. 267.

(Secs. 22-23.)

22. (*Extension of ss. 18 and 19 of Reg. 8 of 1819.*) Rep. by the Bengal Rent Act, 1859 (10 of 1859).

Collector's
cutcherry
held a Civil
Court.

[¹]23. *First.*—It is hereby declared and enacted that, in so far as concerns the summoning and examination of witnesses, the penalties for false testimony, for resistance of process, contempts and all other similar matters connected with cases under cognizance before the Collectors[²] of land-revenue, or other officer, by virtue of the powers vested in them by this Regulation or any [³][other law] whereby Collectors[²] are vested with judicial powers, their *cutcherry* or office for the time being shall be deemed and held to be a Court of Civil Judicature.

Suits to
contest
Collector's
decisions held
to be appeals
from sum-
mary
awards.

Second.—Provided also that the regular suits which may be brought to contest decisions passed by Collectors[²] under the powers vested in them by sections 11, 12, 14, 15, 16, 17, 18, 19 and 20 shall be of the nature of an appeal to Court in its regular jurisdiction from a summary award. It shall not therefore be necessary for the Collector[²] or other officer of Government to be a party in the action.

Collectors
authorized
to execute
their awards.

Third.—Collectors[²] of the land-revenue are hereby empowered to execute all awards made by them under the rules of this Regulation, in cases wherein a specific sum of money shall be adjudged to be due, or any costs or damages be awarded; the Collector[²] decreeing the same shall proceed to levy the amount for the party in whose favour it may be adjudged by the process in use for the recovery of arrears of the Government revenue:

Provided, however, that he shall not sell any lands, houses or other real property in satisfaction of any judgment passed in favour of any individual on a summary inquiry. [⁴]

In cases wherein possession of lands, houses, watercourses or the like may be adjudged, it may and shall be lawful for the Collector[²] making the award to deliver over possession in the same manner and with the same powers in regard to all contempts, resistance and the like as are or may be lawfully exercised by the Courts in giving possession

[¹] Section 23 (1) has been applied—

by the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5 (9), (*post*, p. 294), to cases investigated by Collectors under that Regulation or under the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), (*ante*, p. 187); and

by the Cess Act, 1880 (Ben. Act 9 of 1880), s. 92 (printed in Vol. II of this Code), to the making of valuations of lands under Part II of that Act.

[²] As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 267.

[³] The words "other law," in s. 23 (1), were substituted for the words "other Regulation" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 706.

[⁴] So much of cl. 3 of s. 23 as prohibits the Collectors from selling land in satisfaction of summary awards for arrears of rent which may have accrued thereon was repealed by Act 8 of 1835, s. 1. See also the repeal by the Bengal Rent Act, 1859 (10 of 1859), mentioned in foot-note [¹] on p. 257, *ante*.

(Sec. 24.)

to an auction-purchaser; and the Zila * * [1] Adalat shall support the Collectors[2] in the exercise of the above power, and shall give effect to any orders passed by them in pursuance of it in the like manner as if the same had been passed by themselves.

Collectors[2] are further hereby empowered to place one or more peons, *mirdahas*, *sawars* or the like to aid in the maintenance of possession for the party to whom it may be awarded, in case of his deeming such a measure necessary or expedient.

[2]24. First.—It shall and may be lawful for a Collector[2] or other officer exercising the powers of Collector preparatory to making or revising a settlement as aforesaid, to depute any *tahsildar*, *kanungo*, *amin* or other fixed or temporary officer to any village or *mahal*, whether the same be managed by a *zamindar* or farmer or be held *khass*, to inquire into the various matters which such Collector[2] or other officer is required or empowered to investigate, in order to form a settlement in the mode prescribed by this Regulation.

Collectors authorized to depute Native officers to make inquiries preparatory to settlement.

Any such Native officer so deputed as above shall be deemed to be vested with the power of summoning and examining *patwaris*, *gumasthas* or other persons by whom the accounts of the village or *mahal* may be kept, in the same manner and with the same powers as is provided for officers deputed under section 25, Regulation 12, 1817.[4]

Furthermore, in case the Collector[2] or other officer may so prescribe, the said *tahsildar* or other person shall be empowered to make a measurement of the village or *mahal* into which they may be deputed, and to summon any *mukaddams*, *padhans*, *rayats* or other residents, and to call upon them to point out the boundaries of such village or *mahal*, and to furnish information as to all matters relating to the land and the rights and interest attaching thereto; and any person contumaciously withholding information from an officer deputed as aforesaid shall be liable, on the same being established to the Collector's[2] satisfaction, to the same penalty as is prescribed for *patwaris* refusing to attend or give evidence.

Second.—Provided also that any person who may by force or threats obstruct or resist the execution of any legal process, requisition or order of a Collector[2] or other Revenue-officer shall, in addition to the penalty of process or

Punishment of resistance or obstruction of process or

[1] The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874),

officers, see s. 35, *post*, p. 267.
Act 9 of 1830), s. 92 (printed under Part II of that Act.
If the Regulation is printed

(Secs. 25-28.)

order of
Collector.

ties prescribed by ^[1][any other law] for such act, be liable to a fine not exceeding two hundred rupees, or to imprisonment in the *Diwani* jail for a period not exceeding two months; the said fine or other penalty to be adjudged by the Collector^[2] after proceeding duly held and recorded and the sentence to be immediately reported to the Board^[3] to which he may be subject.

Police-officers
to aid execu-
tion of
process and
orders of
Collector.

Third.—Provided further that all police-officers shall aid and support the execution of all process and orders issued by a Collector^[2] or other officer aforesaid, on the responsibility of the officer issuing or executing the same; and, if any affray or breach of the peace shall occur in consequence of any resistance or obstruction being made, or attempted to be made, to the legal process or order of a Collector^[2] or other Revenue-officer, the parties resisting or obstructing such process or order shall be punishable for the affray or breach of the peace, and the Revenue-officer shall not be liable to any criminal prosecution on that account.

25. (*Employment of Vakils or Agents by parties in suits before Collectors.*) *Rep. by the Pleaders, Mukhtars and Revenue Agents Act, 1865 (20 of 1865).*

Pleadings
required.

26. No other pleadings shall be required from the parties in ^[4][suits the cognizance of which is hereby vested in Collectors] than a plaint and answer:

Provided that, if the parties should at any time wish to file an amended plaint or an amended answer, or any explanatory motion, such subsidiary pleadings shall be received.

27. (*Stamped paper to be used.*) *Rep. by the Repealing Act, 1876 (12 of 1867).*

Collectors
may try and
determine
suits in any
part of their
districts.

^[5]**28.** It shall be competent to the Collectors^[2] to hear and determine such suits in whatever part of the district they may occasionally be or reside:

Provided that every hearing and decision be in public *cutcherry* or in some other place open to the public, and in the presence of the parties or of their constituted agents or *vakils*, if in attendance.

^[1]The words "any other law," in s. 24 (2), were substituted for the words "the existing Regulations" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 706.

^[2]As to the exercise of functions of Collectors by other officers, see s. 35, *post*, p. 267.

^[3]As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

^[4]These words in square brackets in s. 26 were substituted for the words "such suits" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 706.

^[5]S. 28 has been applied, by the Bengal Land-Revenue Settlement Regulation, 1825 (9 of 1825), s. 5 (9), (*post*, p. 294), to cases investigated by the Collectors under that Regulation or under the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), *ante*, p. 187.

(Sec 29)

[1]29. *First*—The decisions of the Collectors[2] on all such suits shall be appealable to the Board of Revenue or other authority exercising the powers of that Board [3] Appeal to Board

The petition of appeal shall be presented either to the Collector[2] or to the Board,[2] at the option of the party * * * [4], * * * Procedure on such appeal.

* * [5] the Board[2] shall not be required in ordinary cases to go into a regular investigation of the merits, but shall be authorized to dismiss the appeal without further investigation, in all cases in which, on a consideration of the final *rubakar* of the Collector,[2] they may not see ground to consider the decision of that officer to be unjust, erroneous or doubtful, or his proceedings in the case irregular or imperfect

* * [6] in all cases in which the Collector[2] may dismiss the suit for non-attendance, or on some other ground of default, without an investigation of the merits of the case, it shall be competent to the Board[2] to direct a new trial, and, in cases in which he may neglect or delay the investigation or decision of a suit without sufficient cause, it shall be competent to the Board[2] to interfere, and to cause the Collector[2] to proceed upon the inquiry into and determination of it. When Board may direct new trial or interpose to correct neglect or delay

Second—No pleadings, except the petition of appeal, shall be required in such appeals, nor shall any fees be taken by the Board on the exhibits originally filed, or on any further documents which the Board[2] may think it necessary to call for Pleadings required in appeal as to Board.

Third—If the parties choose to employ in the pleading of such appeals the same agents or *talils* who were previously employed by them in the original suit, no further *muktarnama* or *talalatnama* shall be required of them. No muktarnama required for same agents re-employed.

Fourth—The respondent shall receive notice of the appeal, but shall not be compelled to appear in person or by *talil*, and the appeal shall be decided on the merits of the case, notwithstanding his absence, in the same manner as if he had attended Respondent to receive notice but not required to appear

[1] As to the time for presenting an appeal under s. 20 see the Bengal Land Revenue Settlement Act, 1868 (Ben. Act 3 of 1868) in Vol. II of this Code

[2] As to the exercise of functions of Collectors by other officers see s. 35 *supra*, § 267

[3] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot note to the Bihar and Orissa Board of Revenue Act 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code

[4] The words "and shall be written on stamped paper of the value of two rupees in s. 29 (1), which were repealed by the Repealing Act 1876 (12 of 1876) are omitted

[5] Words as to limitation, which were repealed by the Amending Act 1903 (1 of 1903), are omitted

[6] The words "Provided also that," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

(Secs. 30-31.)

Board's decision how far final.

Fifth.—The decision of the Board^[1] shall be final in as far as concerns the result of the summary inquiry of the Collector^[2] * * *

Sixth.—Any person, however, dissatisfied with the summary judgment of the Collector^[2] or the Board^[1] and desirous of a more full and formal decision, shall be at liberty to prefer a regular suit to try the merits of the case in the *Zila* or other similar or superior Court in which it may be cognizable.

In such cases the summary judgment of the Collector,^[2] if not reversed or stayed by the Board,^[1] shall be carried into effect notwithstanding the institution of the regular suit.

Parties having claims cognizable by Collectors, and not wishing summary trial, may in first instance bring regular suit.

30. All persons having claims or complaints to prefer of the nature of those made cognizable by Collectors^[2] under the provisions of this Regulation, and not wishing to avail themselves of the summary process authorized in that Court, shall be at liberty to institute their claims or complaints, in the first instance, by a regular suit before the local *Munsif*, or in the *Zila* * * * ^[4] *Adalat* * * * ^[5], according as the suit may be cognizable in these Courts respectively * * *

31. First.—Whenever a regular suit may be instituted in a Civil Court, with a view to set aside or alter a summary judgment passed by a Collector^[2] the proceedings held on the summary inquiry shall be called for by precept from the Court, and filed on the record of the case.

Second.—* * * ^[7] all * * * ^[8] *Munsifs* shall, in cases tried by them, be held and bound by the decisions passed, and records prepared, by Collectors^[2] or other Revenue-officers under the provisions of

^[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

^[2] As to the exercise of functions of Collectors by other authorities, see s. 35, *post*, p. 267.

^[3] The words "and shall be rendered in a Persian *rubakari*, written on stamped paper of the value of ten rupees," have been omitted: the word "Persian" was repealed by Repealing Act, 1874 (16 of 1874), and the remaining words were repealed by the Repealing Act, 1876 (12 of 1876).

^[4] The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

^[5] The words "or Provincial Court of the Division," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

^[6] The words "under the general Regulations for the administration of civil justice," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

^[7] The words "Provided also that" are omitted as having been repealed by the Amending Act, 1903 (1 of 1903), and the words "no such suit shall be cognizable by, or referable to, any register, *sadar amin* or *munsif*, and" are omitted as having been repealed partly by Act 25 of 1837 and partly by the Repealing Act, 1874 (16 of 1874).

^[8] The words "registers, *sadar amins* and," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

On appeal against Collector's decision his proceedings to be on record.

No such appeal cognizable by, or referable to, any *Munsif*.

(Seqs. 32-33.)

this Regulation, unless the same shall have been rescinded or altered by the Board^[1] or by the Zila or other similar or superior Court, on a regular suit.

32. The Collectors ^{Periodical reports by Collectors to Boards.} ¹ ² shall transmit to the ³ Board^[1] such periodical reports of the causes decided by, or depending before, them as the ⁴ Board^[1] may direct, and the ⁵ Board^[1] will also furnish to Government such abstracts of those reports, and such reports in the cases received and determined by them in appeal, as the ⁶ [Local Government] shall from time to time require.

33. *First*—It shall be competent to Collectors^[2] or other officers ^{Collectors authorized to refer certain cases to arbitration.} exercising the powers of Collectors to refer to arbitration any disputes cognizable by them under the provisions of this Regulation, as well as any questions or disputes of any kind respecting land of the tenures therein, or the rights dependent thereon, that may come before them, provided the parties consent to that mode of adjustment, and, on award being made, to cause the same to be executed.

In referring cases to arbitration under the above provision, and in their general proceedings relative to such suits, the Collector^[2] • • • ^{Force of awards passed on such reference.} ³ shall be competent to vest in the arbitrators the same powers and authority in regard to the summoning and examination of witnesses, and the administration of oaths^[6] and to enforce the orders passed by the arbitrators under such powers, in the same manner as the Courts of Judicature are empowered to do, and all awards made on such references shall, when confirmed by the Collector,^[2] have the same force and validity as a regular decree of the *Adalat*, and shall not be liable to be reversed or altered, unless the award shall be open to impeachment on the ground of corruption or gross partiality or shall extend beyond the authority given by the submission of the parties, and such ground of impeachment shall be established in a regular suit in the *Zila*, • • • ⁷ or other superior Court wherein the case may be cognizable.

[1] As to the exercise of functions of the Board of Revenue by other authorities, see the Board of Revenue Act, 1913 (B. and

by other officers, see s. 35, *post*, p. 267. he word "Boards" by the Amending

" in the original text, are to be read tuted therefor—see the Amending Act,

the rules contained in Regulation 16, in Regulation 6, 1813, in so far as the were repealed by the Repealing Act,

(10 of 1873), in General Acts, 1868-73,

omitted the Amending Act, 1903 (1 of 1903), is

(Sec 35)

and to appoint an officer to the management of the same, retaining in deposit the rents and produce or such portion thereof as may remain after discharging any public revenue demandable therefrom, with the charges of management, until one of the contending parties shall be placed in possession

Second —Whenever any Magistrates or Joint Magistrates shall have before them any suit, complaint or information relative to any dispute regarding lands, premises, crops, watercourses or the like, which may appear likely to terminate in a breach of the peace, or which it may otherwise be desirable to bring to an immediate decision, it shall be the duty of such Magistrate or Joint Magistrate, in cases in which the Collector^[1] shall be vested with the cognizance of such actions, to certify the case to that officer, and the Collector^[1] will then forthwith proceed to investigate and determine the case under the rules above prescribed

Reference of disputes by Magistrates to Collector

Provided also that, in all cases of forcible dispossession or forcible disturbance of possession, the Collector^[1] shall invariably transmit to the Magistrate or Joint Magistrate a copy of the first proceeding held by him in the case, and also a copy of the *rubat arzi* containing his final award

Third —The Collector^[1] shall in all such cases use every proper means for inducing the parties to refer their disputes to arbitration, in like manner as the *Dewan* Courts are directed to do

Collector to encourage arbitration.

35 Whenever the term "Board of Revenue" * * *^[2] may occur in this or any other Regulation, the same shall be held and considered to apply to any Board, committee or commission, and to any member of such Board, committee or commission, that may be vested by the Governor General in Council with the powers and authority of the Board of Revenue, save and except in so far as may be otherwise specially declared and provided

* Board of Revenue.

In like manner, all rules in this or any other Regulation, whereby any duties or powers may be prescribed for, or vested in, Collectors shall be held and considered to be equally applicable to any officer exercising the authority of Collector under the orders or with the sanction of the ^[3] [Local Government]

Rules requiring Collectors to apply to officers exercising authority of Collector

[] As to the exercise of functions of Collectors by other officers see s 35 post, on this page

^[1] The words "or Board of Commissioners" which were repealed by the Amending Act 1903 (1 of 1903) are omitted

^[2] The words "Governor General in Council" in the original text are to be read as if the words "Local Government" were substituted therefor—see the Amending Act 1903 (1 of 1903) Sch II post p 705

(Secs. 37-39.)

Government
not liable for
errors of
Courts.

37. (*Collector's power to punish for contempt.*) Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841).

38. It is hereby declared and enacted that Government is not and shall not be held liable for any error or irregularity which may have occurred, or shall occur, in any order, proceeding or decree of any Court of Judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding or decree deemed to be erroneous or irregular.

Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid: and if any person or persons shall sue Government or any officer of Government for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be non-suited, with costs.

The same principle is and shall be held applicable to all orders, proceedings or decrees made, held or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

39. (*Saving of Ben. Reg. 1 of 1821.*) Rep. by the Bengal Land-revenue Sales Act, 1841 (12 of 1841).

BENGAL REGULATION 6 of 1823

(THE BENGAL INDIGO CONTRACTS REGULATION, 1823)

CONTENTS

SECTION

- 1 Preamble
- 2 When persons making advances for cultivation of indigo-plant on certain lands have lien on, or interest in, its produce
- 3 *First*—Such person how to proceed when he has just reason to believe that *raiya*t will dispose of produce otherwise than stipulated
Second—Summons for attendance of defendant
Third—Summons how served and public notice of claim how given
Fourth—On non appearance of defendant or other claimants, evidence to be taken, and case decided *ex parte*
Fifth—In what cases award shall be passed, adjudging plaintiff's right to produce
Sixth—If claim be not established, plaintiff to pay costs and compensation to defendant
Seventh—Notice to third parties in what cases, and their claims how investigated
Eighth—Defendant not to be subjected to unnecessary detention
Ninth—In what cases order may issue to deliver plant to a party, before summary inquiry completed
- 4 *First*—Authority to watch fields and to prevent removal of plant given to parties in certain circumstances
Second—Security for rent due to landholders how provided
- 5 *First*—Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo plant
Second—Judgment to what extent in summary suits.
Third—(*Repealed*)
Fourth—Penalty in regular suits where breach of contract not ascribable to fraud or dishonesty
- 6 Investigations how and by whom conducted
- 7, 8 (*Repealed*)

BENGAL REGULATION 6 of 1823

(THE BENGAL INDIGO CONTRACTS REGULATION, 1823) [1]

(10th July, 1823)

A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.

1 The poverty of the lower orders in India, and particularly of those *Preambles*
employed in agriculture, occasions the general use of borrowed capital
for the production of the chief articles of trade and consumption

The capitalist advances his money, and sometimes the seed, likewise,
upon a contract to receive the produce of a defined quantity of land,
either at a certain fixed price, or at rates to be subsequently determined
with reference to the market price at a specified season, and this system
is understood generally to prevail in the Province of Bengal[2] in the
cultivation of the plant from which the indigo dye is extracted

According to the existing Regulations, if the contracting *raiyat*
should fail to cultivate the land in the manner specified, or, having so
cultivated the land, should sell the produce to another, or otherwise
defraud his creditor, and fail to execute his contract by delivery of the
stipulated article, the person with whom he has so contracted has no
other remedy than a regular action for the recovery of the penalty conditioned
in the agreement

It is usual for the Courts of Justice, in decreeing such causes, to
award such limited penalty as may, in each instance, appear to be a fair

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903),
Sch. I—see *post*, p. 689

LOCAL EXTENT.—This Regulation was enacted for the whole of the former Province
of Bengal—see the concluding paragraph of s. 1 *post*, p. 274

It has been declared, by the Laws Local Extent Act 1874 (15 of 1874) s. 6 (printed
in General Acts 1868 78 Fd 1909 p. 458) to be in force throughout the former Province
of Bengal, except as regards the Scheduled Districts

The application of the Regulation is barred—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2),
post p. 864

in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872),
s. 3 (2) as amended by the Sonthal Parganas Justice and Laws Regulation,
1899 (3 of 1899) s. 3 *post*, p. 832.

FURTHER ENACTMENTS.—Other enactments relating to indigo contracts are—
the Bengal Indigo Contracts Regulation 1830 (5 of 1830), *post* p. 335, and
the Bengal Indigo Contracts Act 1836 (10 of 1836), *post* p. 341

[2] This includes the present Province of Bihar and Orissa except the district of
Bambalpur

(Sec. 2.)

compensation to the person making the advances for the non-employment of his capital.

In the absence, however, of any rule for the regulation of the discretion thus assumed, much confusion has arisen from the conflicting opinions and judgments of the several judicial officers as to the extent of penalty recoverable on agreements of this nature.

* * * * *

*[¹]

It seems reasonable, also, that the person who advances seed and capital, or capital only, for the expenses of cultivation on a defined parcel of land, should be considered to possess a lien and interest in the indigo-plant produced, on that land, when so stipulated in a written engagement between the parties and especially in cases in which such written engagement may have been duly registered * * * * * [²]; and that it should not be in the power of a *raiyat*, who has already conditioned for the delivery of the produce of his land to one person, to break the condition by a clandestine and fraudulent transfer of such produce to another.

The system at present in force provides, as above observed, no other remedy for parties injured by this dishonest practice than by a regular action in the Civil Court.

The difficulty and delay of obtaining redress by that course have not unfrequently led to acts of violence, and even to serious affrays; and the more frequent occurrence of such affrays is to be apprehended in consequence of the eager competition which now prevails amongst the indigo-manufacturers in some parts of Bengal, arising from the unusually high price of indigo.

The Governor General in Council has in consequence judged it expedient to declare the principles on which the points above stated shall be settled, and to provide for the more prompt adjustment of disputes and enforcement of contracts of the nature above specified; and the following rules have accordingly been passed, to take effect in the several districts comprised within the Province of Bengal [³] from the date of their promulgation.

2. If any person shall have given advances to a *raiyat*, or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo-plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or

[¹] Portion repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[²] The words and figures "under the provisions of Regulation 20 of 1812," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

[³] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

(Sec 3)

place, such person shall be considered to have a lien or interest in the certain land have
indigo plant produced on such land, and shall be entitled to avail him lien on or
self of the process hereinafter provided for the protection of his interests interest
and for the due execution of the conditions of the contract in its
produce.

3 *First*—If any person, who may have made advances on conditions Such person
of the nature above described, shall have just reason to believe that an how to
individual under engagement with him is evading or is about to evade proceed
the execution of his contract, by making away with and disposing of the when he has
produce otherwise than as stipulated, or that he has engaged secretly or just reason
openly to supply the same to another, it shall be competent to such person to believe
to present a petition of complaint to the Zila * * * [1] Judge * * * [2] that raysal
within whose local jurisdiction the land stipulated to be cultivated with will dispose
the indigo plant may be situated, filing with the same the original deed of produce
of engagement by which the produce may be assigned and engaged to be otherwise
delivered to himself or at his factory, and certifying in his petition that than
such deed was voluntarily and *bonâ fide* executed by the individual com- stipulated,
plained against

Second—On such petition and original deed of engagement being Summons for
filed, a summons, or *talab chitthi*, shall be immediately issued through attendance
the *na'ir* in the usual form requiring the individual named in the of defendant.
petition to attend and answer to the complaint, either in person or by an
authorized agent, within such specified period as may in each instance
appear reasonable, and which period shall in no case exceed twenty days

Third—The officer entrusted with the execution of the process shall Summons
also be instructed to affix a copy of the summons in the village *cutcherry* how served ;
or other place of public resort, and to erect a bamboo on the specific
parcel of ground on account of which the claim may have been preferred,
and which it shall be the duty of the plaintiff or his agent to point out

By these means sufficient public notice of the claim will be given to and public
enable persons desirous of contesting the plaintiff's right, or of estab notice of
lishing a prior right to the produce of the land, to appear either in person claim how
or by an authorized agent before the Court for that purpose, and the given.
failure so to attend, before the summary decision be passed will be held
to bar the claim of any third party founded on any contract for the
produce of the land in question, unless it be established by a regular
suit

Fourth—If the officer serving the process shall not be able to execute On non
it on the person of the defendant, he shall nevertheless publish the claim appearance
in the manner above directed, and if the defendant shall not appear to of defendant
or other

[1] The words 'or City,' which were repealed by the Repealing Act 1874 (16 of 1874),
are omitted

[2] The words 'or to a register exercising the powers of a Magistrate' which were
repealed by the Repealing Act 1874 (16 of 1874), are omitted

(Sec. 3.)

claimants
evidence
to be taken,
and case
decided
ex parte.

In what
cases award
shall be
passed,
adjudging
plaintiff's
right to
produce.

If claim
be not
established,
plaintiff
to pay
costs and
compensa-
tion to
defendant.

Notice to
third parties
in what cases
and their
claims how
investigated.

answer to the complaint within the period specified in the summons, and no other claim be referred in bar of that of the plaintiff, the Judge * * * [1] shall, after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim, in the same manner as if the defendant had personally appeared.

Fifth.—If the defendant or his authorized agent should attend within the period specified, and should deny the execution of the deed of engagement filed by the complainant, proof of the same shall be taken; and if its voluntary execution be established to the satisfaction of the Court * * * [2] and no preferable claim be established by a third party, a summary award shall be made, adjudging to the plaintiff the right of receiving the crops according to the terms of the agreement.

The same principle shall be applied if the engagement be admitted and no satisfactory reason be shown why the defendant should not be held to the performance of his contract.

Sixth.—If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive, and the claim unfounded, or that the plaintiff had no sufficient cause to warrant his application to the Court, the complaint shall be dismissed, and the plaintiff shall be made liable to the payment of costs and such reasonable sum in addition as may seem to the Judge * * * [3] a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

Seventh.—If it should appear in the course of the inquiry that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead, either in person or by *vakil*; and if such person or any third party shall, previously to the decision of the case, come forward and produce a similar deed of engagement, stipulating for the produce of the same portion of land, the Judge * * * [3] shall, after such summary investigation as may be necessary, determine whether either of the parties have any just claim to the produce of the land, and, if so, which of them may have the prior and better claim; a preference will of course be given to engagements duly registered * * * [4].

[1] The words "or other officer" which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[2] The words "or other tribunal trying the case," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[3] The words "or other officer trying the case," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[4] The words and figures "under the provisions of Regulation 20, 1812," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted.

(Sec. 4.)

The result of such investigation shall be recorded, and a decree passed adjudging the question of right between the parties.

Eighth—No defendant who may attend under the process described in this section shall be confined in jail, or be in any manner detained, longer than may suffice to take his answer to the claim and to obtain from him such further explanations as the nature of the answer may suggest. Defendant not to be subjected to unnecessary detention.

Ninth.—If, pending the summary inquiry in the manner above directed, it shall appear that the plant on the ground is in a state fit to be cut, and will be injured or destroyed if not cut, it shall in such case be competent to the Judge * * * [*¹] to pass an order[*²] for the delivery of the plant to either of the parties provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation; In what cases order may issue to deliver plant to a party, before summary inquiry completed.

the amount of such compensation shall be fixed by the Judge * * * [*¹] in communication with the parties, and shall be regulated with reference to the estimated produce of the ground, and to the probable value of such produce when manufactured; and the amount, when so fixed, shall be carefully recorded on the proceedings.

4. *First*.—Any person in whose favour a summary award shall have been passed for the produce of any defined spot of land shall be entitled to place a watch over the same, and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement; Authority to watch fields and to prevent removal of plant given to parties in certain circumstances.

and, in the event of any attempt being made to cut or remove the plant, it shall be competent to the person holding the decree to apply to the nearest police *daroga* and to claim from him the assistance of the police in preventing such removal;

it shall, moreover, be the duty of the police-officers and of all other officers on such a decree being exhibited, to aid the person in whose favour it may have been passed to the utmost of their power.

Second.—In order that the foregoing rule may not operate to the prejudice of the landholders, who * * * [*²] are authorized to attach the crops for the realization of rents justly due to them, it is hereby provided that, whenever any manufacturer, who may have obtained an award under the foregoing rules, may cause the plant to be cut and taken away, he shall be held responsible, conjointly with the *raiyat*, for any Security for rent due to landholders how provided.

[¹] The words "or other person trying the case," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[²] As to security to be given by a person desiring to remove indigo-plant, ordered to be delivered to him under cl (9) of s. 3, see the Bengal Indigo Contracts Act, 1836 (10 of 1836), s. 2 *post*, p. 341.

[³] The words "by the existing Regulations," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Secs. 5-8.)

arrear of rent which may have been due on account of the specific parcel of ground from which the indigo-plant may have been taken.

Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo-plant.

5. *First*.—In cases in which a *raiyat* who may have received advances and entered into written agreements for the cultivation and delivery of indigo-plant, in the manner indicated in this Regulation, shall have failed to cultivate the ground specified, or, having cultivated it, shall have failed or refused to complete his engagement, or shall have sold, made away with, or transferred the produce to another person, the party with whom such agreement was first made shall be at liberty to institute, at his option, either a summary or a regular suit.

Judgment to what extent in summary suits.

Second.—If the summary process be adopted and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him, with interest on the same, and the costs of the summary process.

Third.—(*Judgments in regular suits*.) *Rep. by the Bengal Indigo Contracts Act, 1836 (10 of 1836)*.

Penalty in regular suits where breach of contract not ascribable to fraud or dishonesty.

Fourth.—If no fraud or dishonest dealing be established, and the failure of a *raiyat* or other contractor to execute the stipulations of his engagement by the delivery of indigo-plant in the manner stipulated be owing to accident, or to any cause not implying fraud or dishonesty, the penalty to be adjudged against a contractor shall not exceed three times the sum advanced as the consideration for executing the deed, including interest.

Investigations how and by whom conducted.

6. * * ^[1] investigations under this Regulation shall be conducted according to the form and in the manner prescribed for the conduct of * * ^[1] suits for arrears of rent * * * ^[2]. It shall * * ^[2] be competent to any person whose claim under a deed of engagement for the cultivation and delivery of indigo-plant may have been set aside * * ^[3], or who may be otherwise dissatisfied with the decision passed on * * ^[1] ^[4] [an investigation] under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement, or for the establishment of any other claim or interest to which he may deem himself entitled.

7, 8. (*Stamp on contract concerning indigo-plant; such contract may include several individuals and separate transactions*.) *Rep. by the Court-fees Act, 1870 (7 of 1870)*.

^[1] The word "summary," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

^[2] Words repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

^[3] The words "by a summary award," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

^[4] The words in square brackets in s. 6 were substituted for the words "a investigation" by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 337.

BENGAL REGULATION 7 or 1823.

[THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION REGULATION, 1823.][¹]

(30th October, 1823.)

A Regulation for prohibiting loans by covenanted Civil Servants from persons subject to their official authority and influence.

1. Whereas by the existing Regulations[²] all covenanted Civil Servants of the Company, employed in the judicial and revenue departments of the service, are prohibited from lending money, directly or indirectly, to any proprietor or farmer of land, dependent *talukdar*, under-farmer or *rayat*, or their sureties; and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence, the following rules have been enacted by the Governor General in Council, and are to be in force from the date of their promulgation throughout the provinces immediately subject to this Presidency[³].

2. *First*—All covenanted Civil Servants, in whatever department of the public service they may be employed, are henceforward prohibited, Civil Servants prohibited from bor.

[¹] **SHORT TITLE**.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch III—see *post*, p 611

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see s 1.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed in General Acts, 1868-75, Ed 1909, p 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan and the Porahat Estate in the district of

Division—see Vol IV, Part III

in the Sonthal Parganas—see Vol IV, Part IV, but its district of Angul, by the Angul Laws Regulation, 1913

(3 of 1913), s 3 (2), *post*, p 864

APPLICATION.—The present Regulation relates to loans to officials. As to loans by officials, see the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793 (33 of 1793), *ante*, p 77

GIFTS TO OFFICIALS.—For prohibition of receipt of gifts by officials, see—

the East India Company Act, 1772 (13 Geo 3, c. 53), ss 23 to 25 (printed in the Collection of Statutes relating to India, Vol I Fd 1913, p 27)

the East India Company Act, 1793 (33 Geo 3, c. 52), ss 62 to 64, 66 (printed in *ibid*, p 67), and

the Government of India Act, 1833 (3 & 4 Will 4, c. 83), s 76 (printed in *ibid*, p 191)

[²] See now the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793 (33 of 1793), *ante*, p 77

[³] This includes the present Province of Bihar and Orissa except the district of Sambalpur

(Secs. 3-6.)

rowing money under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any Native officer under their authority, or under the authority of any of their subordinate functionaries, or from or to the known surety, agent, relation, connection or dependant of any such Native officer, or from or to any person of whom such Native officer may be known to be or to have been the servant, agent, surety or dependant.

and from other persons officially accountable to them.

Second.—In like manner, and under the like penalty, all officers of Government, being covenanted Civil Servants,^[1] are henceforward prohibited from borrowing money from, or in any way incurring debt to, any manager, guardian, executor, *amin*, *sazawal*, *gumashita*, farmer, *mutawalli* or other person, who may in any way be officially accountable to them, or from and to the known surety, agent, relation, connection or dependant of such person.

Third.—(*Rules applied to commercial officers.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Certain officers prohibited from incurring debt to *zamindars* and others residing, or having property, within their districts.

3. ^[2][All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners, being members of the Indian Civil Service], are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any *zamindar*, *talukdar*, *raiayat* or other person possessing real property, or residing in, or having a commercial establishment within, the city, district or division to which their authority may extend.

Penalty for lending money to Civil Servants.

4. All persons are prohibited from lending money, or otherwise becoming in any way creditor, to any officer of Government, being a covenanted Civil Servant, in contravention of the above rules: and any person lending money, or in any way becoming creditor, to any such public officer in breach of this prohibition shall forfeit to Government a sum equal to the amount for which he shall have so illegally become creditor.

5. (*Report by officers in debt.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

Penalty for officers receiving new appointments if indebted to individuals

6. * * ^[3], if any covenanted servant who may be hereinafter appointed to any office, shall at the time of such appointment be indebted to any person with whom it would be illegal for him to contract a loan, while holding such office, it shall be incumbent on such servant, before

^[1] As to the extension of this prohibition to other officers of the Government, see the Government Servants' Conduct Rules, 1904, rule 7.

^[2] These words in square brackets were substituted for the original words by the Amending Act, 1897 (5 of 1897), Sch. II—see *post*, p. 605.

^[3] The words "In like manner," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Secs 7-8.)

entering on the duties of the office, to make known the circumstance to the^[1][Local Government], and, failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said office contrary to above rules, omitting to report

7. (*Penalty on Natives knowingly taking office in contravention of above rules*) Rep by the Amending Act, 1903 (1 of 1903)

8. Suits for the recovery of penalties incurred under this Regulation shall and may be instituted under the special instruction of the^[1][Local Government], and shall be conducted by the Superintendent and Remembrancer of Legal Affairs, or by such other officer as ^{Suits for recovery of penalties.} ^[2][the Local Government] may nominate for that purpose

Such suits shall be instituted in the * ^[3] Court of the division within which the transaction may have taken place, or the lender may reside or may possess real or personal property

An appeal shall lie from judgments passed in such cases, in like manner as from other judgments passed in original suits * ^[4], and the judgments shall be enforced under the provisions * ^[5] for the execution of other decrees of the Civil Courts

[¹] These words "Local Government" in ss 6 and 8 were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897), Sch II—see post, p 605

[²] These words "the Local Government," in s 8 were substituted for the word "Government" by the Amending Act 1897 (5 of 1897) Sch II—see post, p 605

[³] The word "Provincial," which was repealed by the Repealing Act, 1874 (16 of 1874), is omitted

[⁴] The words "by the Provincial Courts," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[⁵] The words "of the Regulations" which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted—see now the Code of Civil Procedure (Act 5 of 1908), in General Acts, 1904 CG, Ed 1909, p 133

BENGAL REGULATION 6 OF 1825.

(THE BENGAL TROOPS TRANSPORT REGULATION, 1825.)^[1]

(4th April, 1825.)

A Regulation for rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.

1. Whereas it is enacted in the first clause of section 3, Regulation 11, 1806^[2], that, on receiving the notification mentioned in the preceding section relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector^[3] of the district shall immediately issue the necessary orders to the landholders, farmers, *tahsildars*, or other persons in charge of the lands through which the troops are to pass for providing the supplies required and for making any requisite preparation of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or *nalas* as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current *bazar* prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or *nalas*, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors^[3] or other public officers acting in that capacity to enforce their orders in the cases above-mentioned, by imposing a fine upon any landholder, *tahsildar* or other person in the possession or management of

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 611

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal s. 1

It has s. 1
in General Extent Act, 1874 (15 of 1874), s. 6 (printed to be in force throughout the former Province of Bengal Districts

It has under the Scheduled Districts Act, 1874 (14 of 1874) s. 3, as well as also in the district of Hazaribagh, Ranchi, Palamau and Manbhum, and Parganas Dhalbhum, the Kolhan and the Porahat Estates in the district of Singhbhum in the Chota Nagpur Division—see Vol. IV, Part III

It is in force in —
the district of Angul, Vol. IV, Part IV, and
the Bonthal Parganas, *ibid*

[2] The Bengal Troops Transport and Travellers' Assistance Regulation, 1806 It is printed *ante*, p. 120

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 267.

(Secs. 2-3.)

land, who, after receiving the requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same;

the Governor General in Council has therefore enacted the following rules, to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William.^[1]

Penalty for
zamindars
not providing
supplies for
troops, etc.

2. Any landholder, farmer, *tahsildar* or other person in the possession or management of land, who may have been duly required by a Collector^[2] of the land-revenue (or any public officer acting in that capacity), in pursuance of section 3, Regulation 11, 1806,^[3] to provide supplies for a body of troops about to proceed by land or water through any part of the British territories or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or *nalas* intersecting their march, and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall, on proof of such failure, neglect or disobedience to the satisfaction of the Collector^[2] (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector^[2] or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand * *^[4] rupees.

Collector
to make
summary
inquiry.

3. The Collector^[2] or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged with disobeying or neglecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person or by *vakil* for that purpose.

If he shall fail to attend, either in person or by *vakil*, the summary inquiry shall be conducted *ex parte*, and the Collector^[2] shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

^[1] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

^[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 267.

^[3] The Bengal Troops Transport and Travellers' Assistance Regulation, 1806. It is printed *ante*, p. 120.

^[4] The word "*sicca*," which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

BENGAL REGULATION 9 of 1825

[THE BENGAL LAND REVENUE SETTLEMENT REGULATION, 1825]

CONTENTS.

SECTION

- 1 Preamble
- 2 *First*—Provisions of Regulation 7, 1822, extended to lands not within limits of permanently settled estates
Second—To be in force in estates held *khass*,
Third—and applicable to Sunderbans, etc
- 3 Power to vest Collector, etc., with powers specified in section 20, Regulation 7 of 1822
- 4 Procedure when arrear of revenue on account of *mahals* not permanently assessed is not paid within one month after due date, and objections appear to public sale.
- 5 *First*—Modification of Regulation 2, 1819
Second—Collector making settlements to issue notification and require appearance of persons holding lands free of assessment,
Third—may cause lands to be measured,
Fourth—to give public notice one day previous to that on which it is intended to hold proceedings
Fifth—Procedure on failure of persons to attend after notice
Sixth—Collector may either complete investigation of claims or limit proceedings to certain points
Seventh—What provisions to regulate investigation of claims to *talukdar* lands
Eighth—Bar to resumption of lands without sanction
 Procedure by Board
Ninth—Regulations applied to investigation by Collectors
Tenth—Stamped paper not necessary
 Award of charges to witnesses
Eleventh—Procedure for persons claiming to hold lands revenue free
 Investigation
 Pleadings
 Summary proceedings
Twelfth—Procedure as to land appearing to belong to Government and no person *bona fide* in possession
- 6 Power to vest Collector, deputed to hold local inquiry within *mahal*, with same powers in regard to lands held free of assessment in villages adjoining *mahal*
- 7 Lands held free of assessment to be specified in proceedings
- 8 Saving of certain Regulations
- 9 (*Repeated*)

BENGAL REGULATION 9 or 1825.

(THE BENGAL LAND REVENUE SETTLEMENT REGULATION, 1825) [1]

(5th May, 1825.)

A Regulation for extending the operation of Regulation 7, 1822,[2] for authorizing the Revenue-authorities to let in farm estates under temporary leases, on the default of the *malguzars*, or to hold the same *khass* for a term of years; for modifying and adding to the rules contained in Regulation 2, 1819[3]; and for making certain other amendments in the existing Regulations.

1. Whereas the provisions of Regulation 7, 1822,[2] are in force Preamble.
only within the Ceded and Conquered Provinces, in the district of Cuttack, and in the *pargana* of Pataspur and its dependencies,

And whereas there are within the other Provinces belonging to this Presidency various *mahals* and tracts for which a permanent settlement has not yet been concluded, and it appears to be advisable that the Revenue authorities should be vested, in regard to such *mahals* and tracts, with the same powers as belong to the like officers within the Ceded and Conquered Provinces,

And whereas the principle of the rules contained in the said Regulation, relative to lands held free of assessment, or at a *mukarrari jama* under special grants, is equally applicable to such tenures in all parts of

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see post, p. 689.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see the concluding paragraph of s. 1 post, p. 290.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909 p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in districts of the Hazaribagh and Manbhum, and Pargana Dhalbhum in the district of Singhbhum, in the Chota Nagpur Division—see Vol. IV, Part III.

Its application is barred in —

the district of Angul, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), post, p. 864.

the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1879 (3 of 1879), s. 3 post, p. 832.

EXTENSION OR APPLICATION.—This Regulation has been extended to estates dealt with under the Bengal Land revenue Sales Act, 1859 (11 of 1859)—see s. 60 of that Act, post, p. 417.

[2] The Bengal Land revenue Settlement Regulation, 1822. It is printed ante, p. 233.

[3] The Bengal Land revenue Assessment (Resumed Lands) Regulation, 1819. It is printed ante, p. 407.

(Sec. 2.)

the country; and it appears to be likewise expedient to make provision for the occasional exercise, by the Revenue-officers in the Lower Provinces, of the powers specified in the said Regulation, for the summary trial of certain suits between individuals, subject as therein provided to an appeal to the *Adalat* by a regular suit;

And whereas, a frequent recourse to the sale of lands for the recovery of arrears of revenue in districts of which the assessment has not been fixed in perpetuity being inexpedient, it appears to be necessary and proper that the Revenue-authorities should be empowered to let in farm for a term of years the estates of defaulters under temporary leases, or to hold the same *khas* for the purpose of making a *raiayatwar* settlement, where that measure may be deemed advisable;

And whereas it has appeared to be expedient to modify and to add to the provisions contained in Regulation 2, 1819^[1]; * * * ^[2];

The following rules have been enacted, to be in force from the date of their promulgation, within the Provinces belonging to the Presidency of Fort William.^[3]

Provisions of Regulation 7, 1822, extended to lands not within limits of permanent-ly-settled estates.

2. *First*.—The provisions contained in clause *Sixth*, section 2, and in the thirty-three following sections of Regulation 7, 1822,^[4] are hereby extended to all lands (including *jagirs*, *mukarraris* and other tenures held free of assessment or at a quit-rent under special grant) not included within the limits of estates for which a permanent settlement has been concluded in the manner prescribed by Regulation 8, 1793,^[5] * * ^[6], as far as the same may be applicable.

To be in force in estate held *khas* ;

Second.—The said provisions shall likewise be in force in all estates which may now or hereafter be held *khas*, during the period for which they may be so managed.

and appli-cable to Sund:rbans, etc.

Third.—The provisions aforesaid shall also apply to [*the Sundarbans*,] the hill lands of Bhagalpur, and other extensive forests and wastes, not included within the limits of *parganas*, *mauzas* or other revenue divisions, specified at the time of settlements as belonging to the *mahals* then assessed, as well as to all estates bordering on such forests or wastes.

[¹] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 187.

[²] Portion of the preamble which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[³] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[⁴] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 233.

[⁵] The Bengal Decennial Settlement Regulation, 1793. It is printed *ante*, p. 31.

[⁶] The words "and Regulations 2 and 22, 1795," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

(Secs. 3-4)

3. It shall be competent to the [¹][Local Government] to vest any Collector[²] or other officer exercising the powers of Collector within the Province[s] of [Bengal,] Bihar [³] or Orissa * * [⁴] with the several powers specified in section 20, Regulation 7, 1822, [⁵] in the manner specified in the second clause of that section, within such local limits as may, from time to time, appear to be advisable, and the several provisions contained in section 21 and the fourteen following sections shall apply to the several *parganas* or other local divisions so placed under the jurisdiction of the Collector or other officer aforesaid

4. Whenever an arrear of revenue shall accrue on account of any *mahal* for which an engagement may have been taken by the proprietors or persons recorded as proprietors, not being an estate of which the assessment has been fixed in perpetuity, and the *malguzars* shall fail to discharge the same within one month of the date on which it became due, then, if there shall appear to be any objection to the sale of the estate, and the arrears cannot otherwise be recovered (on which points the decision of the Revenue authorities is to be held conclusive), it shall be competent to the Collector[²] or other officer exercising the powers of Collector, with the sanction of the Board, [⁶] and subject to the orders of Government, to annul the existing engagements with the *malguzars*, and to let the *mahal* in farm for such period, not exceeding fifteen years, as the [¹][Local Government] may appoint, or to hold the *mahal* under *khas* management for a like period

In such cases, if the *mahal* shall yield a higher *jama* than that for which the *malguzars* may have engaged, the excess shall in the first place be appropriated to the liquidation of the arrear due on account of it, or such portion thereof as the farmer may not have separately agreed to discharge or as may not otherwise have been recovered, and, out of any surplus remaining, the *malguzars* shall receive such *malikana*, not being less than five *per cent* nor more than ten *per cent* on the assessment of the last year of their engagement, as the [¹][Local Government] may direct

[¹] The words "Governor General in Council" in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, *post*, p 706

[²] As to the exercise of functions of Collectors by other officers, see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822) s 35 *ante*, p 267

[³] This word "or" in a. 3, was inserted by the Amending Act, 1903 (1 of 1903), Sch II—see *post*, p 707

[⁴] The words "and Benares," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891) are omitted

[⁵] The Bengal Land revenue Settlement Regulation, 1822 It is printed, *ante*, p 235

[⁶] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913), s 3 in Vol III of this Code

(Sec. 5.)

[¹]5. *First*.—The following rules are enacted in modification of sections 5, 6, 8, 10, 11, 13, 15, 22 and 30[²] of Regulation 2, 1819.[³]

Second.—Whenever a Collector[⁴] or other officer exercising the powers of Collector shall visit, or be about to visit, any *mahal* for the purpose of making a settlement in the manner prescribed in Regulation 7, 1822,[⁵] it shall be competent to him, by a notification to be stuck up in some conspicuous place within such *mahal*, and each village thereof, if consisting of several villages, to require all persons holding lands free of assessment or at a fixed *jama*, within or adjoining to the village or villages in which the lands of such *mahal* or any part thereof may be situate, to appear before him either in person or by *vakil* within a reasonable time, not being less than one month from the date of such notification, at such place within the *mahal* as he may select for holding his office, and to attend him from day to day while he may continue within the *mahal*, with all *sanads* or other writings in virtue of which they may possess the lands, or under which the lands may have been, or may be claimed to be, held free of assessment or at fixed *jama*, together with any evidence they may desire to have taken in support of their claims.

Third.—It shall likewise be competent to Collectors[⁴] and other officers aforesaid, when engaged in the settlement of any *mahal* under the rules of the Regulation above-mentioned or preparatory thereto, to measure or cause to be measured, without a previous reference to the Board of Revenue,[⁶] all lands, whether *malguzari* or *lakhiraj*, belonging or adjoining to the village or villages in which such *mahal* or any part thereof may be situated.

Fourth.—When the Collector or other officer aforesaid[⁴] shall have commenced the settlement of any *mahal* in regard to which he may have issued a notification as aforesaid, and shall propose to hear the claims of persons holding lands free of assessment or at a fixed *jama*, and to receive their *sanads* and other writings as aforesaid or any of them, the period fixed in the notification for the attendance of such parties being arrived, he shall, on the day preceding that on which he may intend to hold pro-

[¹] As to suits under s. 5, see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10 (3), (5), *post*, pp. 320, 321.

[²] S. 30 of Ben. Reg. 2 of 1819 was repealed by the Bengal Land-revenue Resumption Act, 1862 (Ben. Act 7 of 1862), s. 1, and a new provision in lieu thereof was enacted by s. 2 of the same Act, printed in Vol. II of this Code.

[³] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 187.

[⁴] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 267.

[⁵] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 235.

[⁶] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

may cause
lands to be
measured ;

to give public
notice one
day previous
to that on
which it is
intended to
hold pro-
ceedings.

(Sec. 5)

ceedings in the said cases or any of them, notify such intention by an *istahar* stuck up in his office and in some place open to the public within the *mahal*.

Fifth—If any person holding land free of assessment or at a fixed *jama* as aforesaid shall fail to attend either in person or by *vakil*, after notice being given in the manner above prescribed, the Collector^[1] shall be competent to proceed *ex parte* to investigate the title of such party to hold the land in his possession free of assessment, and with the sanction of the Board of Revenue^[2] to resume the said lands, if they appear to be held on an invalid title

Procedure on failure of persons to attend after notice.

Nor shall any person defaulting as above, or neglecting to appear and give answer when required to do so, in the manner prescribed in Regulation 2, 1819,^[3] be entitled to stay the resumption and assessment of his lands under the rule contained in section 22 of that Regulation

Provided, further, that the rule contained in the clause *Second*, section 13, Regulation 2, 1819,^[3] shall be and be held applicable to such persons, as well as to persons who may appear when summoned under the provisions of that Regulation, or in the manner hereinbefore provided

Sixth—It shall be competent to Collectors^[1] and other officers making settlements as aforesaid either to complete the investigation of the claims of persons holding land free of assessment or at a fixed *jama*, under the rules of the 15th and following sections of Regulation 2, 1819,^[3] with the modifications hereinafter provided, during the progress of the settlement, or to limit their proceedings to the ascertainment of the land actually held under such tenures, and the record of the title-deeds produced by the parties, postponing the further investigation of the case to a future period

Collector may either complete investigation of claims or limit proceedings to certain points

When any Collector^[1] or other officer may postpone the investigation of any case as aforesaid, he shall at the same time notify to the party the time and place at which the further investigation is to be held, or, if circumstances prevent him from doing so, he shall, before resuming the inquiry, give the party one month's notice to attend, and, on the failure of any party to attend when so warned, the Collector^[1] or other officer aforesaid shall be competent to proceed to try the case *ex parte*, and, with the sanction of the Board,^[2] to resume and assess the lands

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land Revenue Regulation, 1835, ante, p. 267.
[2] As to the exercise of functions of the Board of Revenue by other authorities see the Bengal Board of Revenue Act, 1913 (B. and F. Act No. 10 of 1913).

[3] The Bengal Land Revenue Assessment (Resumed Lands) Regulation, 1866. It is printed ante, p. 187.

(Sec. 5.)

What provisions to regulate investigation of claims to *lakhiraj* lands.

Seventh.—Collectors^[1] or other officers who may proceed to investigate claims to *lakhiraj* lands during the progress of a settlement shall follow the rules of the 15th and following sections of Regulation 2, 1819,^[2] in all cases wherein the parties may attend and deny the liability of their lands to assessment, subject to the modifications hereinafter provided.

Bar to resumption of lands without sanction.

Eighth.—No lands shall be resumed by a Collector,^[1] even though the parties may confess that they are liable to assessment, without the sanction of the Board of Revenue,^[3] save and except as hereinafter provided; but on such confession duly attested, which will of course supersede the necessity of any further inquiry, it shall be competent to the Board^[3] forthwith to direct the lands to be assessed, unless the same be held by village or *zamindari* servants in lieu of wages, which shall not be resumed without the sanction of Government:

Procedure by Board.

Provided also that in all cases wherein it may appear to the Board^[3] that the resumption of lands held free of assessment would occasion serious distress to the holders, it shall be their duty to submit a report of the circumstances to the ^[4][Local Government].

Regulations applied to investigation by Collectors.

Ninth.—The provisions of clause *First* section 23, * * *^[5] and section 28, Regulation 7, 1822,^[6] shall be applicable to cases investigated by Collectors^[1] under the rules of Regulation 2, 1819,^[2] or under the provisions of this Regulation.

Stamped paper not necessary.

Tenth.—It shall not be necessary to use stamped paper for the proceedings held or exhibits filed before the Revenue-authorities in cases originating with a Collector^[1] or other officer of Government claiming to assess land held free of assessment; but the said authorities are authorized in the said cases, as in all other cases wherein they may exercise judicial powers * * *^[7] to award to witnesses their reasonable charges, and to levy the same, as well as all costs adjudged by them,

Award of charges to witnesses.

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 267.

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 187.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[4] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 706.

[5] The word and figures "section 25" have been omitted in consequence of the repeal made by the Pleaders, Mukhtars and Revenue Agents Act, 1865 (20 of 1865).

[6] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 233.

[7] The words "under the provisions of the existing Regulations," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

{Sec 5}

by the process^[1] in force for the recovery of arrears of the Government revenue

Eleventh —Persons claiming to hold lands exempt from revenue shall, with their petitions of plaint, deliver to the Collector^[2] or other officer to whom the same may be preferred all *sanads* and other writings on which their claim may be founded, and shall insert in the said petition a full specification of the several particulars required to be registered by the rules in force relative to the registry of rent free tenures, and of the grounds on which their claim is founded

Procedu.
for persons
claiming
to hold land
revenue free.

If the claim shall involve only the interests of Government, the Collector^[3] shall proceed without delay to investigate the case giving, however, eight days' previous notice to the party of the day on which he may propose to bring it to a hearing in the mode prescribed for the Civil Courts

Investigation.

If the claim shall be against any individual singly or jointly with Government, the Collector^[3] shall serve him with a notice containing a statement of the demand and requiring his attendance in person or by *vakil* duly authorized within the period of one month, with any papers or evidence he may desire to produce in denial of the claim; and on the appearance of such defendant the Collector^[3] after allowing him to inspect and examine the claimant's petition of plaint and the writings therein referred to, shall call upon him to deliver, within the period of seven days a statement of the objections he may desire to urge against the claim

In such cases no other pleadings shall be required from the parties than a plaint and answer, but it shall and may be lawful for Collectors^[3] to receive and record such subsidiary pleadings as may appear requisite for the elucidation of the merits of the claim

Pleadings.

Collectors^[3] shall proceed to investigate every such case as soon as possible after the answer of the defendant shall be received, giving, however, as aforesaid eight days' previous notice to the parties of the day on which he may propose to bring it to a hearing

Provided that, in cases wherein the parties concerned or their authorized representatives shall desire or consent (the same being signified in a written petition or *ikarnama* to be filed with the proceedings) to have an immediate decision, whether the case shall originate in a claim on behalf

Summary
proceedings.

[1] See now the Bihar and Orissa Public Demands Recovery Act, 1914 (B and O Act 4 of 1914) ss 4 5 and 7 in Vol III of this Code

[2] But see s 2 of the Bengal Land revenue Resumption Act 1862 (Ben Act 7 of 1862) in Vol II of this Code

[3] As to the exercise of functions of Collectors by other officers see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s. 35 ante, p 267

(Sec. 5.)

of Government or in the suit of an individual, and whether the proceedings of the Collector^[1] shall be held under the provisions of Regulation 2, 1819,^[2] or under those of this or any other Regulation touching the matter, it shall be competent to the Collector^[1] to proceed forthwith to the investigation and decision of the case, without issuing any formal summons or notice.

Procedure as to land appearing to belong to Government and no person *bonâ fide* in possession.

Twelfth.—Whenever a Collector^[1] or other officer exercising the powers of Collector shall be of opinion that any tract of land belongs to Government, and that no individual has *bonâ fide* possession thereof, it shall be competent to him, by a notification to be stuck up in his *cutcherry*, in the *Zila* Court and in the *cutcherry* of the *kanungo*, *Munsif* or *thanadar* to whose jurisdiction the land in question may belong or adjoin, to require all claimants to the same to appear before him within a reasonable time, to be fixed by the Board of Revenue,^[3] not being less than six weeks from the date of such notification; and, on the appearance of such claimants, to proceed to investigate their claims in the manner prescribed by Regulation 2, 1819,^[2] for investigations relative to the liability of lands to be assessed as herein modified:

Provided further that, if the Collector^[1] or other officer aforesaid shall decide that none of the claimants have *bonâ fide* possession of the lands in question, and his decision shall be affirmed by the Board of Revenue,^[3] the said lands shall be at the disposal of Government until the same shall be adjudged to be private property by a decree of Court on a regular suit:

Provided also that all such suits, if preferred by one of the claimants before the Collector,^[1] shall be dismissed, with costs, unless instituted within six weeks of the date on which the Board^[3] may affirm the decision of that officer, and that the rule contained in clause *Second*, section 13, Regulation 2, 1819,^[2] shall be strictly applied to such suits: nor shall any such suit be admitted on the part of any person who may not have appeared before the Collector^[1] pursuant to notice, unless he shall be able to show good and sufficient cause for his non-appearance and shall apply for permission to sue within six weeks of his being informed of the Board's^[3] decision:

Provided further that, if the party shall not prosecute his suit within six weeks of being permitted to sue, the suit shall be dismissed with costs.

[¹] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 267.

[²] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 187.

[³] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

(Secs. 6-8)

6. It shall be competent to the [1][Local Government], by [2][notification in the local official Gazette], to vest any Collector[3] or other officer who may be deputed to hold a local inquiry within the limits of any *mahal* with the same powers and authority in regard to all lands held free of assessment within or adjoining to the village or villages in which the lands of such *mahal* or any part thereof may be situated, and for the investigation of all claims touching such lands as by the foregoing provisions are vested in Collectors[3] making settlements in the manner prescribed by Regulation 7, 1822,[4] and also from time to time to depute Collectors[3] or other officers aforesaid for the purpose of ascertaining, recording or investigating the said claims in the manner above prescribed.

Power to vest Collector, deputed to hold local inquiry within *mahal*, with same powers in regard to lands held free of assessment in villages adjoining *mahal*

7. The particulars of all lands held free of assessment within all villages and *mahals* of which the settlement may be made under the provisions of Regulation 7, 1822,[4] shall be fully recorded in the proceedings of the Collector[3] or other officer making the settlement

Lands held free of assessment to be specified in proceedings.

8. Nothing contained in Regulation 2, 1819,[5] or in any other Regulation in force, shall affect, or be considered to affect, the provisions contained in section 10, Regulation 19, 1793,[6] * * * [7], relative to grants illegally made subsequently to the dates specified in the said [8][section], and in all cases in which it shall be established to the satisfaction of the Revenue-authorities that any lands now held free of assessment were subject to the payment of the revenue at the dates aforesaid or subsequently thereto, and that they have not been thereafter exempted from the payment of revenue under the authority of the [9][Local Government] nor adjudged to be exempted from payment of revenue under a regular decree of Court it shall and may be lawful for the said authorities forthwith to resume and assess the said lands, save and except in cases wherein the revenue of the same may belong to a

Saving of certain Regulations.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, *post*, p 706

[2] The words "an order in Council," in the original text, are to be read as if the words "notification in the local official Gazette" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, *post*, p 707

[3] As to the exercise of functions of Collectors by other officers, see the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s 35, *ante*, p 267

[4] The Bengal Land revenue Settlement Regulation, 1822. It is printed *ante*, p 235

[5] The Bengal Land revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p 187

[6] The Bengal Revenue free Lands (non Badshahi Grants) Regulation, 1793. It is printed *ante*, p 49

[7] The words and figures "section 11, Regulation 31, 1803, and in the corresponding enactments applicable to Benares and the Conquered Provinces," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted

[8] This word "section," in s 8 was substituted for the words "rules respectively" by the Amending Act, 1903 (1 of 1903), Sch II—see *post*, p 707

(Sec. 9.)

zamindar, talukdar or other *malguzar* with whom a permanent settlement has been concluded; nor shall the provisions of section 22, Regulation 2, 1819,[¹] apply to such cases.

9. (*Rules relative to the abolition of the sair duties, etc., applicable to what cesses.*) *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

[¹] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 187.

BENGAL REGULATION 11 of 1825.

(THE BENGAL ALLUVION AND DILUVION REGULATION, 1825) [1]

(26th May, 1825)

A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.

1. In consequence of the frequent changes which take place in the Preamble. channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort William[2] and the shifting of the sands which lie in the beds of those rivers, *chars* or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming *chars* or other lands gained in the manner above described

The Court of *Sadar Durrani Adalat*, with a view to ascertain the legal provisions of the Muhammadan and Hindu laws on this subject, called

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), sec. 111—see *post*, p. 611

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see *post*, p. 300

It has
in General Act, 1874 (15 of 1874), s. 6 (printed
of Bengal, force throughout the former Province

It is in force in the Southern Murganah—see Vol. IV, Part IV, but its application is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*

FURTHER ENACTMENTS.—For further enactments, in force in Bengal, relating to Alluvion and Diluvion, see—

the Bengal Alluvion and Diluvion Act, 1847 (9 of 1847), *post*, p. 347.

the Bengal Alluvial Land Settlement Act, 1858 (31 of 1858), *post*, p. 391, and

the Bengal Alluvion (Amendment) Act, 1868 (Ben. Act 4 of 1868), in Vol. II of this Code

As to the application of the Bengal Tenancy Act, 1835 (8 of 1835), to alluvial land, see s. 180 of that Act, *post*, p. 556

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur

(Sec. 5.)

by alluvion or
by dereliction
not provided
for by
Regulation.

which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or, if not, by general principles of equity and justice.

Encroach-
ments on beds
of navigable
rivers and
other
obstructions.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent *Zila* * * *^[1] Magistrates or any other officers of Government who may be duly empowered for that purpose from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

^[1] The words " and City," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

BENGAL REGULATION 13 OF 1825

[THE BENGAL LAND REVENUE SETTLEMENT (RESUMED KANUNGOS AND REVENUE FREE LANDS) REGULATION, 1825]^[1]

(7th July, 1825)

A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by *Kanungos* in the Province of Bihar: and to provide for the future settlement of such lands, as well as of the lands composing other resumed *lakhtiraj* tenures, with the present occupants, when so directed by Government.

1. [Whereas it was enacted by section 5, Regulation 2 of 1816,^[2] Preamble
that the revenue of lands held by *Kanungos* generally in the Province of Bihar, in virtue of their offices, should be liable to resumption, and accordingly under that law, various resumptions of land so held took place, and the parties to whom the *zamindari* interest in the same appeared to belong were admitted to engage for the Government revenue, but, on the consideration of the proceedings held under the provisions of the above rule, it appeared to the Governor General in Council to be improper wholly to deprive the *Kanungos* or their representatives of the advantages derived from such lands, and enjoyed by them for a long course of years, and it was accordingly resolved by Government, on the 14th February, 1822, that in cases where the lands had been occupied and managed by the *Kanungos* or their representatives, and the rents received by them, they should be replaced in possession of such lands, and a settlement made with them on the principle prescribed by clause second, section 8, Regulation 19 of 1793,^[3] namely, the revenue

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), s. 1—see post, p. 690

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see post, p. 304

It is in force in the whole of the Province of Bengal, and in the Districts of Bengal, Bihar, and Orissa, under the Scheduled Districts Act, 1874 (14 of 1874) s. 1

It is in force in the District of Hazaribagh and Manbhum, and Pargana Dhalbh, and in the Chota Nagpur Division see Vol IV, Part III

The Regulation is in force in the Sonthal Parganas, see Vol IV, Part IV, but its application is barred in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913) s. 3 (¹) post p. 864

[²] Ben Reg. 2 of 1816 was repealed by the Repealing Act, 1868 (8 of 1868)

[³] The Bengal Revenue Free Lands (non Bada-shahi Grants) Regulation, 1793. S. 8 is printed ante, p. 43

(Sec. 2.)

to be paid to Government to be equal to one-half of the annual produce (or rental) of the lands, calculated according to the rates at which other lands in the pargana of a similar description may be assessed, securing to the proprietors of the soil such *malikana* or other allowance as they might have received prior to the resumption of the official *minha* tenure;

And whereas the existing laws relative to the settlement of resumed *lakhiraj* tenures are not properly applicable to the case, and it appears to be expedient expressly to provide for the maintenance by the Courts of Judicature of the arrangement above described, in order that the *kanungo minhadars* may be secured in the possession (subject to the quit-rent fixed by Government) of the lands, rents and produce heretofore possessed by them;]

And whereas it is desirable to provide for the settlement, on the same principle, of any lands that may be resumed under the corresponding rules relating to *kanungos* and their official tenures in other parts of the country;

And whereas it appears to be generally expedient to make a distinct provision for securing to the holders of *lakhiraj* lands resumed by the officers of Government, and assessed on the principle prescribed in clause *Second*, section 8, Regulation 19, 1793,^[1] the benefits which that law was designed to bestow, and to declare the competency of Government, in other cases, to continue the persons who have heretofore occupied lands free of assessment, or their representatives, in the possession of the same, notwithstanding such lands being made subject to assessment;

The following rules have been enacted for these purposes respectively, to be in force throughout the territories subject to the Presidency of Fort William^[2] from the date of the promulgation of this Regulation.

Power to
continue
minhadars
and their
heirs in
possession of
resumed
lands,

*2. In case of *lakhiraj* tenures resumed under the provisions of Regulation * * *^[3] 5, 1816,^[4] or any other Regulation in force relative to lands held by *kanungos* by virtue of their offices, where the *minha* or *lakhiraj* tenure, and the right of property in the land, are vested in distinct parties, it shall be competent to the ^[5][Local Government] by

[¹] The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. S. 8 is printed *ante*, p. 49.

[²] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[³] The words and figures "4, 1808, Regulations 2 and," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[⁴] The Bengal Kanungos Regulation, 1816. It is printed *ante*, p. 147.

[⁵] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 707.

* Ss. 2 and 3 have been repealed for the Orissa Division by the Orissa Tenancy Act, 1913 (B. and O. Act II of 1913), s. 2, Sch. I, Part I in Vol. III of this Code.

(Secs 3-4)

instruction to the Revenue Board^[1] or other authority empowered to make the resumption, to continue the *minhadars* and their heirs in possession and management of such lands, subject to such assessment as ^{heretofore held as *lakhiraj* by *kanungos*.} ^[2][it] shall judge it proper to direct, and the parties claiming the *zamindari* interest or other proprietary right in such *mahals* shall not be entitled to any land rent, produce or profit beyond what they may have enjoyed up to the period of the resumption of the tenure, or would have been entitled to receive, in the event of Government having confirmed the same in perpetuity, free of assessment

Persons, consequently, claiming to be *maliks* of the said lands, who, during the continuance of the *lakhiraj* tenure, had not possession of the same, whether they received a *malikana* allowance or otherwise, shall not disturb the possession of the *minhadars* or their heirs and representatives, in any case wherein the ^[3][Local Government] may have sanctioned such possession, and any suit preferred by such persons in a Court of Judicature to recover possession, contrary to the intent and meaning of this rule, shall be dismissed with costs

Provided, however, that in all cases of the nature abovementioned, wherein the *zamindar* or other proprietor of the land may have received *malikana* or other proprietary due during the existence of the *lakhiraj* tenure, he shall continue to receive the same, notwithstanding the resumption of the *lakhiraj*, in like manner as if such resumption had not taken place

*3 The tenures of the *minhadars* which have been confirmed to them with the sanction of Government by the arrangement referred to in the preamble of this Regulation, or which may be so confirmed in conformity with the preceding section, are declared to be hereditary and transferable, but, should they escheat to Government, the parties possessing a *zamindari* interest or other proprietary right in the lands will be admitted to engage for the revenue subject to a fresh assessment to be adjusted on the actual assets under the general^[4][law]

4 The principles of sections 2 and 3 of this Regulation shall be considered applicable to all cases of *lakhiraj* resumption under the general Regulations in force, which may come within the favourable rule of

[1] As to the exercise of functions of the Board of Revenue by other authorities, see ^{Tenures of *minhadars* so situated declared hereditary and transferable.} ^{Foregoing sections applied to certain *lakhiraj* resumptions.} ^{Orissa and Orissa Board of Revenue Act, 1913 (B and his Code}

al text is to be read as if the word "it" were Act 1903 (1 of 1903), Sch II, *post*, p 707 in Council in the original text are to be read were substituted therefor—see the Amending Act,

law, in s. 3 was substituted for the word "Regulations," by ^{" p 707}

Division by the Orissa Tenancy Act, 1 in Vol III of this Code

assessment contained in the second clause of section 8, Regulation 19, 1793^[1], in the Province[s] of [Bengal,] Bihar and Orissa * * *^[2] it being the evident intention of the rule in question that it should be applied to persons who had been long in possession of the *lakhiraj* tenures made subject to assessment by ^[3][the Regulation] above cited, and whom it appeared equitable, in consideration of their long possession, to leave in occupancy of the lands composing their respective tenures, at a moderate assessment, not exceeding a moiety of the annual rent produce.

Modifications
 of enactments
 relative to
 settlement of
 resumed *jagir*,
altamgha,
madadmash,
aima or other
badshahi
 grants, and
 to resump-
 tion of *lakhi-
 raj* tenures.

5. In modification of the existing rules contained in ^[4][Regulation] 37, 1793,^[5] * * * ^[6] or any other Regulation in force, relative to the settlement of resumed *jagir*, *altamgha*, *madadmash*, *aima* and other grants of land termed *badshahi* or royal; and generally in qualification and explanation of all the rules in force relative to the resumption of *lakhiraj* tenures, and the future assessment of lands composing the same, it is hereby further declared that whenever such tenures may be pronounced invalid or extinct by a Revenue Board^[7] or other authority empowered to investigate the *lakhiraj* title in such tenures, under the provisions of Regulation 2, 1819,^[8] or of any other Regulation in force, it shall be competent to the^[9][Local Government], on a special report of the circumstances of the case, when it may appear just and proper in consideration of the long possession of the actual occupant of the land or of his ancestors, to direct his continuance in possession, though not the *zamindar*, *talukdar* or other *malik* of the land, on his engagement for the future assessment on such terms as may be prescribed by Government, and in such cases the whole of the provisions contained in sections 2 and 3 of this Regulation shall be deemed applicable, and be maintained by the Courts of Judicature accordingly.

[¹] The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. S. 8 is printed *ante*, p. 49.

[²] The words and figures "or the second clause of section 8, Regulation 41, 1795, in the Province of Benares," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[³] These words "the Regulation," in s. 4, were substituted for the words "the Regulations" by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 337.

[⁴] This word "Regulation," in s. 5, was substituted for the word "Regulations" by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II—see General Acts, 1887-97, Ed. 1909, p. 337.

[⁵] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 65.

[⁶] The figures and word "42, 1795, and 36, 1803," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[⁷] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[⁸] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 187.

[⁹] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 707.

BENGAL REGULATION 14 OF 1825.

(THE BENGAL REVENUE-FREE LANDS REGULATION, 1825.)[¹]

(14th July, 1825.)

A Regulation to declare the extent of the authority possessed by the Revenue-authorities, subordinate to the Governor General in Council, in the confirmation of *lakhtraj* tenures; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government * * * .^[2]

1. Whereas doubts have arisen as to the extent of the authority ^{Preamble.} possessed by the Revenue-authorities subordinate to the Governor General in Council in regard to the confirmation of *lakhtiraj* tenures, which it is expedient to remove; and it is also desirable further to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters, previously to the acquisition of the country by the British Government;
• • •.[2]

And whereas it is enacted by clause *first*, section 26, Regulation 2, 1819,[³] that in suits instituted in the *Zila Courts* to contest the decisions passed by the Revenue Boards under the provisions of that Regulation, * * * [²] an appeal shall be received by the *Sadar Duani Adalat* * * * [⁴]and it appears to be expedient that * * * [⁵] cases wherein the

[¹] **SHORT TITLE**—This short title was given by the Amending Act, 1903 (1 of 1903),
 See I—see post, p. 690

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—

It has
in General
of Bengal.

It has
1874), § 3
Dalhousie
Part III.

It is in force in the Sonthal Parganas, *see* Vol IV, Part IV, but its application is barred in the district of Angul, by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2) *post*, p 664

[¹] Portion repealed by the Amending Act, 1903 (1 of 1903), is omitted
 [²] The Bengal Land revenue Assessment (Resumed Lands) Regulation, 1819 It is
 printed *ante*, p. 187.

[5] The words "on special grounds only," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

["The words "the above restriction should not apply to," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Sec. 2.)

decision of the Court, may^[1] be opposed to the judgment of the Board of Revenue,^[1] or other authority exercising the powers of that Board, * * *^[2] should be open to a regular appeal,

the following rules have been enacted, in addition to, and in modification of, the provisions of Regulations 19^[3] and 37,^[4] 1793, * * *^[5] of such parts of^[6] [Regulation] 12^[7], 1805, as refer to *lakhiraj* lands, and of Regulation 2, 1819,^[8] to be in force from the date of their promulgation throughout the Provinces immediately subject to the Presidency of Fort William^[9].

Lakhiraj
tenures under
what circum-
stances alone
valid.

2. It is hereby declared and enacted that the power of granting *lakhiraj* tenures, namely, tenures of land exempt from the public assessment, either for life or in perpetuity, as well as of confirming such tenures excepting by a regular judgment passed after a judicial inquiry, belongs, and always has belonged, exclusively to the Supreme Government; and no act, order or decision granting or confirming any tenure as aforesaid within any of the territories subordinate to this Presidency, after the annexation of such territories to the British dominions, shall be held valid, unless the same shall have been done, issued or passed by or under the immediate directions of the^[10] [Local Government] or by some officer expressly authorized by Government to grant or confirm such tenures, or with respect to the confirmation of grants duly authorized by some competent Court of Judicature in a suit regularly tried and decided by it, or by one of the Revenue Boards^[1] acting in a judicial capacity, under the rules of Regulation 8, 1811, whilst that Regulation (rescinded by section 2 of Regulation 2, 1819,^[8]) was in force; and subsequently under the rules of Regulation 2, 1819,^[8] or any other Regulation expressly empowering the Revenue Boards,^[1] after full

[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[2] The words "but that such cases," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 49.

[4] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 65.

[5] The words and figures "Regulations 41 and 42, 1795, Regulations 31 and 36, 1803," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[6] This word "Regulation" was substituted for the words and figures "Regulations 8 and" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 707.

[7] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 103.

[8] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 187.

[9] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[10] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 707.

(Sec 3)

investigation of claims to exemption from assessment under the general rules applicable to *lakhiraj* tenures, to pronounce a decision against the assessment, to be considered final, except on proof, in a Court of Judicature, of fraud or collusion in the previous inquiry

Provided also that no resolution or order passed by * * *^[1] the Board of Revenue^[2] or other authority exercising the powers of that Board, whereby the right of Government to assess any *lakhiraj* lands may have been relinquished or postponed, save and except decisions regularly passed according to the rules above cited, shall operate to the prejudice of Government, or be held to bar the Revenue authorities from proceeding for the recovery of public dues under the provisions of Regulation 2, 1819,^[3] or any other rules in force relative to the resumption of *lakhiraj* tenures held under invalid grants

3. *First*—The following principles are to be observed in determining the force and validity of grants made by persons exercising authority in the Provinces subordinate to this Presidency,^[4] previously to the acquisition of the country by the British Government

Second—*Lakhiraj* tenures of which uninterrupted possession shall have been held exempt from assessment at and subsequently to the periods undermentioned shall be, and be considered to be, valid, without evidence to any formal grant or confirmation of the same, and shall be continued to heirs in cases in which it may be clearly shown, from the nature and denomination of the tenure, that it is hereditary according to the ancient usage of the country, namely, the 12th August, 1765, if the tenure be in [*Bengal*,] Bihar and Orissa (excepting Cuttack), the 14th October 1719, if the tenure be in Cuttack including [*Pataspur* or its dependencies], * * *^[5]

Provided, however, that the above rule shall not apply to cases of derivative tenures, wherein it may appear that the tenure is derived from a *jagirdar* or other person, who, at any of the periods above specified, held lands free of assessment under a temporary or conditional tenure

^[1] The words "the Lieutenant-Governor and the Board of Commissioners, in the Ceded and Conquered Provinces, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

^[2] As in the original, "the Board of Revenue by other authorities, see Bihar and Orissa Board of Revenue Act, 1913 (B and O Act No. 11, 1913), this Code.

^[3] This includes the present Province of Bihar and Orissa except the district of Sambalpur

^[4] Portion repealed by the Amending Act, 1903 (1 of 1903), is omitted.

(Sec. 3.)

In all such cases the parcels of the land so held shall follow the condition of the principal tenure, and, if that be resumable, will consequently be liable to resumption.

Proof of title to hold or recover *lakhiraj* tenure to rest on claimants.

Third.—The proof of possession in the cases provided for by the preceding clause, and (in the case of persons not the original grantees) of the hereditary nature of the tenure, shall be on the parties claiming to hold or recover the *lakhiraj* tenure; the general principle being that the ruling Power is entitled to a certain proportion of the produce of every *bigha* of land, excepting so far as it shall have transferred, relinquished or compounded its right thereto; and all parties claiming the benefit of such exemptions being bound to establish their respective claims and titles.

One or more successions before period specified not to establish title of inheritance.

Fourth.—Provided also that, although one or more successions to any tenure as aforesaid may have taken place before the periods specified in the second clause, the fact shall not be taken to establish a title of inheritance, unless the tenure be clearly of an hereditary nature, or unless the right of inheritance therein shall have been admitted by the ^[1][Local Government] on a reference made to Government according to the rules in force applicable to such cases.

Potentates] and authorities recognisable by Courts, etc.

Fifth.—The Courts of Judicature and Revenue-authorities shall not recognise any potentate or person as having been vested with the supreme power within any part of the Provinces subordinate to this Presidency,^[2] save and except the Kings of Delhi, the *Subadars* of Bengal, Bihar and Orissa, and the several authorities specified in * * *^[3], ^[4][Regulation] 12, 1805^[5], * * *^[6].

If in any case grants shall be produced purporting to have been made or confirmed by any other person than as aforesaid, alleged to have been vested with the supreme power for the time being, and it shall appear to the Court or other authority investigating the same that the plea is well founded, the Court or other authority before whom the case may be pending shall, before passing any decision thereupon, refer the point to the ^[1][Local Government] and be guided by ^[7][its] determination.

^[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 707.

^[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

^[3] The words and figures "Regulation 42, 1795, Regulation 36, 1803, and," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[4] This word "Regulation," was substituted for the words and figure "Regulations 8 and " by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 707.

^[5] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 103.

^[6] Portion repealed by the Amending Act, 1903 (1 of 1903), is omitted.

^[7] The word "his," in the original text, is to be read as if the word "its" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 707.

(Sec. 3.)

Sixth.—To the validity of grants made or confirmed by the Kings of Delhi or by any of the Rulers aforesaid, it is and shall be held to be necessary—

- 1st, that they were made or confirmed within the period during which the person granting or confirming the same possessed and exercised supreme power within the territory in which the lands specified in the grant are situate:
- 2nd, that the grantee actually and *bonâ fide* obtained possession of the land granted within the said period:
- 3rd, that the grant was not subsequently resumed by the officers or the orders of the Government for the time being previously to the acquisition of the country by the British Government, or, if so resumed, that the competence of the officer to resume shall have been expressly disallowed by the [¹][Local Government].

Seventh.—The following shall be held, for the purposes specified in this Regulation, to be the periods at which the several Provinces subordinate to this Presidency were acquired by the British Government, namely, for [Bengal], Bihar and Orissa (excepting Cuttack), the 12th August, 1765; * * * [²] for the Province of Cuttack, [Pataspur and its dependencies], the 14th October, 1803 * * * [²].

Eighth.—To the validity of grants not made or confirmed by the Supreme Power (excepting tenures of long possession described in the second clause of this section), it shall be held to be necessary—

- 1st, that they were made or confirmed by some authority which the [¹][Local Government] shall have expressly declared competent to make or confirm the same;
- 2nd, that the grantee actually and *bonâ fide* obtained possession of the land granted, and that the revenue of the land was not subsequently resumed by competent authority.

Ninth.—Provided also that in cases in which any *lakhiraj* tenure may have been resumed previously to the acquisition of the country by the British Government, the determination of the question whether the officer by whom or by whose order the resumption may have been made was legally competent to do so shall, in all cases wherein it may be necessary to determine this question, rest with the [¹][Local Government].

[¹] The words "as if the words "Lo" 1903 (1 of 1903), Sch. II, is omitted.

[²] Portion repealed by the Amending Act, 1903 (1 of 1903), is omitted.

Moreover, all questions touching the validity of grants made or confirmed by any officer subordinate to the Supreme Power, or the legal effect of resumption by any such officer which may not have been expressly provided for by the Regulations, and which may be material to the decision of any suit or inquiry, shall be referred by the Courts of Judicature or other authorities making the investigation to the [1][Local Government] for determination unless the powers and competence of the officer in question shall have been previously determined by Government.

4. Nothing in this Regulation shall be construed to affect the provisions contained in Regulation 19, 1793,[2] * * *[3] and Regulation 12, 1805,[4] relative to lands not exceeding ten *bighas* of which the produce is *bond fide* appropriated to religious or charitable uses.

5. (*Revision of decisions passed before commencement of Regulation.*)
Rep. by the Repealing Act, 1873 (12 of 1873).

6. In modification of the rules contained in section 26, Regulation 2, 1819,[5] it is hereby enacted that in cases wherein a *Zila* Court shall annul or alter a judgment passed by the Board of Revenue[6] or other authority exercising the powers of that Board under the provisions of the above-mentioned Regulation, a regular appeal shall lie * * *[7]

The provisions of the above-mentioned section shall however still be applicable to cases in which the *Zila* * * *[8] Courts may maintain the decisions of the [9][Board of Revenue][6] or other authorities exercising the powers of [9][that Board].

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, *post*, p. 707.

[2] The Bengal Revenue-free Lands (non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 49.

[3] The words and figures "Regulation 41, 1795, Regulation 31, 1803," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[4] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 103.

[5] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. S. 26 is printed *ante*, p. 187.

[6] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[7] Portion repealed by the Repealing Act, 1874 (16 of 1874), is omitted.

[8] The words "or Provincial," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[9] The words "Board of Revenue" and "that Board," were substituted for the words "Revenue Boards" and "these Boards," respectively, by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 707.

For saving of appeals under s. 6, see the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828), s. 10 (4), *post*, p. 321.

Saving of
lands
devoted to
religious or
charitable
uses.

Modification
of Regulation
2, 1819,
section 26.

BENGAL REGULATION 3 OF 1827.

(THE BENGAL CORRUPTION AND EXTORTION REGULATION, 1827) [1]

(1st November, 1827)

A Regulation for modifying and amending the rules in force relative to the law officers and ministerial Native officers of the Courts of Judicature, who may be guilty of corruption or extortion.

1 to 4. (*Preamble, amendments, no fine to be awarded in Civil Court for corruption or extortion, criminal prosecution not to depend on civil action*) Rep by the Repealing Act, 1874 (16 of 1874)

5. From and after the date of this Regulation, it shall not be necessary for any party from whom money or property may have been corruptly taken or extorted to institute a civil action for the recovery thereof, but, on proof of the charge in a criminal prosecution for those offences, a certified copy of the conviction by [2][the Court] shall be received as sufficient authority for enforcing the refund of the amount or value so taken, with interest, on application to that effect being preferred by the aggrieved party to the Civil Court, * * * [3].

6. (*Amount of embezzlement to be paid in first instance from public treasury*) Rep by the Repealing Act, 1874 (16 of 1874).

[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III—see post, p. 611

LOCAL EXTENT.—This Regulation (s. 5) has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874) s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum and Pargana Dhalbhum in the district of Singhbhum in the Chota Nagpur Division—see Vol. IV, Part III

The application of the Regulation is barred—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), post, p. 854, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, post, p. 832

[2] These words "the Court" were substituted for the words "a Court of Circuit or the Nizamat Adalat" by the Amending Act, 1903 (1 of 1903), Sch. II—see post, p. 708.

[3] The words "on the stamped paper prescribed for miscellaneous petitions," which were repealed by the Repealing Act, 1876 (12 of 1876), are omitted

BENGAL REGULATION 5 OF 1827.

(THE BENGAL ATTACHED ESTATES MANAGEMENT REGULATION, 1827) [1]

(27th December, 1827.)

A Regulation for modifying the rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.

1. Whereas it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue, the following rules have been enacted by the Governor General in Council, to be in force, from the date of their promulgation, throughout the territories immediately subject to the Presidency of Fort William[2]

2. The rules contained in sections 5 and 6, Regulation 5, 1799,[3] * * * [4] regarding the administration and management of estates under orders of the Zila * * * [5] Courts, are hereby declared subject to the following modifications

3. Whenever the Zila * * * [5] Courts may deem it just and proper, under the provisions of the [6] [Regulation] above mentioned, to provide

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1897 (5 of 1897), Sch. III—see *post*, p. 611

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—see s. 1

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamu and Manbhum, and Pargana Dhalbhum in the district of Singhbhum in the Chota Nagpur Division—see Vol. IV, Part III

The application of the Regulation in the de-regulationised tracts in Bihar and Orissa is barred as follows, namely—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p. 864

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p. 832

[7] This includes the present Province of Bihar and Orissa except the district of Sambalpur

[8] The Bengal Wills and Intestacy Regulation, 1799. It is printed *ante*, p. 83

[9] The words and figures "and clauses 5 and 6, s. 16, Regulation, 3 1803," and "and ss. 26 and 27, Regulation 5, 1812, and clause Third, s. 6 Regulation 6, 1813" which were repealed by the Amending Act, 1903 (1 of 1903), and the Repealing Act, 1874 (16 of 1874), respectively, are omitted

[10] The words "and City," which were repealed by the Repealing Act, 1874 (16 of 1874) are omitted

[11] This word "Regulation" in s. 3, was substituted for the words "several Regulations" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 703.

Modification of Regulations regarding management of estates under attachment
Issue of precept for holding estates under attachment and for appointing managers.

(Sec. 4.)

for the administration or management of landed property, the Court shall issue a precept to the Collector^[1] of land-revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof:

Provided, however, that if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector^[1] of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue,^[2] and the Board^[2] will either confirm the manager chosen, or order the Collector^[1] to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

Precept to state property included in attachment.

4. The precept of the *Zila* * *^[3] Court above mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

[¹] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 267.

[²] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3 in Vol. III of this Code.

[³] The words "or City," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

BENGAL REGULATION 3 of 1823

[THE BENGAL LAND REVENUE ASSESSMENT (RESUMED LANDS) REGULATION, 1823.]

CONTENTS

SECTION

1 Preamble

2 to 9 (*Repealed*)

10 *First*—Regulation 2 1819 modified and extended

Second—Decisions of Board of Revenue under section 21 of Regulation 2, 1819,
to be executed notwithstanding suit to contest them

Consequence of declining to pay assessment

Third—Trial of suits to contest Board's decision in cases in which jurisdiction
of Courts is not barred.

Fourth—Proviso as to admission of appeals from inferior to superior Courts

Fifth—Appeals from Board's decisions to be kept distinct

11 *First*—(*Repealed*)

Second—Persons succeeding to possession of lands revenue-free or on *mukarrari*
jama to report to Collector

Third—Investigation of claims to recover possession of attached lands

12 Unregistered tenures liable to resumption, unless declared hereditary by decree
of competent authority

13 *First*—Sundarbans declared property of State and Government competent to
make grants and to take measures for its clearance

Grantees right

Suit to contest such right

Compensation to zamindar claiming valuable interest

Second—(*Repealed*)

BENGAL REGULATION 3 OF 1828.

[THE BENGAL LAND-REVENUE ASSESSMENT (RESUMED LANDS) REGULATION, 1828.][¹]

(12th June, 1828.)

A-Regulation for * * * [²] more effectually securing the realization of the public dues.

1. * * * [³] it appears to be expedient * * * [³] to Preamble. provide that all successions to the possession of land or rent, free of assessment, whether by sale, gift or inheritance, shall be regularly reported to the Revenue-authorities;

it has likewise appeared to be expedient and proper to make provision for the immediate settlement of the limits of the Sundarbans, as ascertained by careful local inquiry, conducted by the Commissioner specially appointed to the duty, and the surveyors under his authority; and also to declare the intent and meaning of certain parts of the existing Regulations in regard to which doubts have arisen;

the following rules have accordingly been enacted, to be in force from the date of their promulgation throughout the Provinces immediately subordinate to the Presidency of Fort William.[⁴]

2 to 8. (Special Commissioners for final determination of cases investigated under the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), ss. 5 to 20, and the Bengal Land-revenue Settlement Regulation, 1825 (9 of 1825), s. 5, and for determination of suits brought to contest the demand of Revenue-officers.) Rep. by the Amending Act, 1903 (1 of 1903).

9. (Oaths to be taken by special Commissioners.) Rep. by the Repealing Act, 1873 (12 of 1873).

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see post, p. 690.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal.

It has been extended by the Bengal Extent Act, 1874 (15 of 1874), s. 6 (printed in General Orders, No. 10,000, to be in force throughout the former Province of Bengal.)

The Regulation is also in force in the Angul District, by the Angul Laws Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3 post, p. 632.

[²] Words in the title which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[³] Portions of s. 1 which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[⁴] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

Regulation 2, 1819, modified and extended.

10. *First.*—The following rules are hereby enacted in modification and extension of the provisions contained in sections 22, 23, 24, Regulation 2, 1819.^[1]

Decisions of Board of Revenue under section 21 of Regulation 2, 1819, to be executed notwithstanding suit to contest them.

Second.—All decisions which have been or may be passed by the ^[2][Board] of Revenue^[3] under the rules in section 21, Regulation 2, 1819,^[1] declaring the liability to assessment of lands * * *^[4] shall be carried into immediate execution by the Collectors^[5] or other local Revenue-officers of such district, notwithstanding that the parties against whom such decisions may have been or may be passed shall have sued or shall sue to contest the Board's^[3] decision in one of the established Courts of Justice * * *^[6] and such parties shall not be permitted to retain possession of the lands unless they enter into an engagement to pay the assessment which may be fixed upon them; such assessment to be collected under the general rules for the realization of the Government revenue from farmers thereof.

Consequence of declining to pay assessment.

And if any person against whom the Board^[3] may have decided shall decline to pay the assessment fixed on the lands, he shall be forthwith dispossessed, and such arrangements shall be made for the collection of the Government revenue as the Collector,^[5] under the orders of the Board,^[3] may see fit to adopt: but in the event of a final decision being passed, exempting the tenure of any such person from assessment, the net collections made on account of Government shall be refunded, with interest thereon at the rate of six *per cent. per annum*.

Trial of suits to contest Board's decision in cases in which jurisdiction of Courts is not barred.

Third.—All suits which may be instituted in the established Courts of Justice under the provisions of sections 22 and 24, Regulation 2, 1819,^[1] and section 5, Regulation 9, 1825,^[7] to contest decisions of the ^[2][Board] of Revenue^[3] shall, when the jurisdiction of the above Courts is not barred by the operation of this Regulation, be heard and determined in the same manner as regular appeals, and no further pleadings shall be required or received in such cases than the objections

^[1] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 187.

^[2] This word "Board" was substituted for "Boards" by the Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 708.

^[3] As to the exercise of functions of the Board of Revenue by other authorities, *see* references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

^[4] The words "whether the same be situated in districts to which the jurisdiction of a special Commissioner has been extended or in any other district," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[5] As to the exercise of functions of Collectors by other officers, *see* the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 267.

^[6] The words "or to the Commissioner appointed under this Regulation," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[7] The Bengal Land-revenue Settlement Regulation, 1825. It is printed *ante*, p. 289.

(Sec 11)

of the appellant to the decision of the Board^[1] and the reply to those objections on the part of the Revenue authorities,

the said Courts shall likewise, on the admission of an appeal, invariably call for the original record of the Board's^[1] proceedings in each case, and shall then require the parties to file their pleadings as above provided, but it shall not be competent to the Courts to take further evidence, oral or documentary, unless it shall appear that such evidence was tendered by the party adducing it to the Collector^[2] or the Board,^[1] and was then rejected on insufficient grounds or that such evidence is essential to the ascertainment of some fact material to the issue, which may not have been fully inquired into in the course of the previous investigation

Fourth—Provided, however, and it is hereby enacted, that nothing contained in the preceding clause shall be construed to bar the admission of a further appeal on the part of the Revenue authorities to * * *^[3] the Court of *Sadar Duani Adalat*, from decisions passed in the first instance in the *Zila* * * *^[4] Courts * * *^[5] in cases of the nature described and specially provided for in section 6, Regulation 14, 1825,^[6] nor the admission by those tribunals of the special appeal on the application of the party opposed to Government under the rules in section 26, Regulation 2, 1819^[7]

Proviso as to admission of appeals from inferior to superior Courts

Fifth—Appeals filed in the established Courts of Civil Judicature to contest decisions of the Board of Revenue^[1] shall be kept on a file or register distinct from that on which other suits before those Courts are entered * * *^[8]

Appeals from Board a decisions to be kept distinct.

11 First (Provisions for securing information of transfers of land held free of assessment) *Rep by the Repealing Act, 1874 (16 of 1874)*

Second—Persons succeeding to the possession of any lands held free of assessment or held on a *mukarrari jama*, on the decease of a former occupant, or by gift, purchase or other assignment or transfer of proprietary right, are hereby required immediately to notify the same to

Persons succeeding to possession of lands revenue free or on *mukarrari jama* to report to Collector

[] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot note to the Bihar and Orissa Board of Revenue Act 1913 (B and O Act 1 of 1913) s 3 in Vol III of this Code

[¹] As to the exercise of functions of Collectors by other officers see the Bengal Land revenue Settlement Regulation 1822 (7 of 1822) s 35 ante p 267

[²] The words "the Provincial Courts or" which were repealed by the Repealing Act 1874 (16 of 1874) are omitted

[³] The words "or the Provincial" which were repealed by the Repealing Act 1874 (16 of 1874) are omitted

[⁴] The word "respectively" which was repealed by the Repealing Act 1874 (16 of 1874) is omitted

[⁵] The Bengal Revenue free Lands Regulation 1825 It is printed ante p 299

[⁶] The Bengal Land revenue Assessment (Resumed Lands) Regulation 1819 It is printed ante p 187

[⁷] The remainder of s. 10 (5) which was repealed by the Repealing Act 1874 (16 of 1874) is omitted

the Collector^[1] or other officer exercising the powers of Collector within the district in which the land may be situated, and any omission to notify such succession or transfer for a period of six months or more shall subject such land to immediate attachment by the Revenue-officers.

Nor shall land so attached be restored to the party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the Revenue authorities, until such party shall have paid to Government a fine equal to one year's rent; and, if the revenue derivable from the land be not awarded to be the right of the individual, the party shall further be required to refund the amount of the collections made by him, with interest thereon at the rate of twelve *per cent. per annum*: provided also that the said rent and collections shall be estimated according to the assessment demandable from the *raiyats* at the time of attachment.

Investigation
of claims to
recover
possession of
attached
lands.

Third.—Where the lands of any individual may be attached under the above rule, any claim which he may prefer to recover possession thereof, and to hold the same free of assessment or on a *mukarrari jama*, shall be investigated and determined by the Collector^[1] under the provisions of Regulation 2, 1819,^[2] as modified by the present Regulation and by those which have been intermediately enacted.

Unregistered
tenures liable
to resump-
tion, unless
declared
hereditary by
decree of
competent
authority

12. All tenures which may not have been duly registered in the manner prescribed by the Regulations, or of which the specification contained in the register shall not purport the same to be held under an hereditary title or as a perpetual endowment, shall be and be held to have been liable to resumption, unless the same may have been declared hereditary by a final decree of a competent Court of Judicature, on the demise of the persons who were in possession at the dates respectively of Regulations 19^[3] and 37,^[4] 1793, * * *^[5] and 12, 1805,^[6] according as the lands may be within the districts to which those Regulations are severally applicable, or in other parts of the country at the date at which the same came into the possession of the British Government.

And Collectors^[1] and other officers exercising the powers of Collector shall accordingly proceed to assess, and, if necessary, attach all lands liable to resumption as above, in the same manner and with the same

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 267.

[2] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed *ante*, p. 187.

[3] The Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 49.

[4] The Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1793. It is printed *ante*, p. 65.

[5] The words and figures "Regulations 41 and 42, 1795, Regulations 31 and 36, 1803, Regulation 8" which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[6] The Cuttack Land-revenue Regulation, 1805. It is printed *ante*, p. 103.

(Sec. 13.)

powers as they are authorized and required to proceed in the case of a lapsed farm, anything in the existing Regulations to the contrary notwithstanding:

Provided further that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title-deeds are forthcoming, and their authenticity recognized, be construed and defined with reference to the whole of the matter contained in such deeds, and not merely by the designation of the tenure. *Jagirs* consequently shall not be held to be life-tenures in cases in which the recital of the grant shall be such as clearly to convey an hereditary interest: nor shall any tenures, howsoever designated, be considered to be hereditary and perpetual if the grants under which they are held shall not convey, in express terms, an hereditary or perpetual interest.

13. First.—The uninhabited tract known by the name of the Sundar-
bans has ever been and is hereby declared still to be, the property of
the State: the same not having been alienated or assigned to zamindars,
or included in any way in the arrangements of the perpetual settlement,
it shall therefore be competent to the [1] [Local Government] to make,
as heretofore, grants, assignments and leases of any part of the said
Sundarbans, and to take such measures for the clearance and cultivation
of the tract as [2] [it] may deem proper and expedient.

Sundarbans
declared
property of
State, and
Government
competent to
make grants
and to take
measures for
its clearance.

All parties to whom such grants, leases or assignments shall have
been made, or to whom they may hereafter be made, shall be entitled to
hold or to take possession of any tract of Sundarban jungle so granted
or assigned without question or opposition, and all public officers shall
aid and assist the same:

Grantees'
right.

Provided also that if any zamindar, talukdar or other sadar malguzar
or any other person owning and occupying or collecting the rent or
revenue of cultivated land in the neighbourhood of the land so granted,
leased or assigned shall sue in any Court of Adalat • • • [3] to
contest the validity of the title or the right of possession of any such
lessee or grantee under such grant, lease or assignment, then if the
land aforesaid shall be proved to be, or to have been, or be not denied
to be or to have been, when so granted, leased or assigned, within the
limit of the unoccupied jungle so named and described, the suit shall be
dismissed with costs:

Suit to
contest
such right.

[1] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, post, p. 703.

[2] The word "he," in the original text, is to be read as if the word "it" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch. II, post, p. 703.

[3] The words "or before a special Commissioner under this Regulation," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

(Sec. 13.)

Compensation
to zamindar
claiming
valuable
interest.

Provided, however, that if any zamindar, talukdar or other person aforesaid shall claim to possess a valuable interest in any part of the Sundarbans, by virtue of authority to collect money or other valuable thing from the persons engaged in gathering wax, or cutting wood or obtaining other jungle products of the tract, or by virtue of any other similar privilege or advantage which may have been recognized as part of the assets on which the assessed revenue of his zamindari, talukdari or other tenure was adjusted at the time of farming the perpetual settlement of the district, and the collection of which was not subsequently stopped and due compensation made under the rules relative to the collection of said revenue or other similar arrangement, such zamindar, talukdar or proprietor shall be entitled to receive from Government compensation for any diminution in the value of such interest and advantage consequent on the arrangements adopted for the cultivation of the Sundarbans; the same being duly established after an investigation conducted under the rules of Regulation 2, 1819,^[1] as modified by this Regulation.

Second.—(Demarcation of boundaries of the Sundarban jungle.) Rep. by the Sundarbans Act, 1905 (Ben. Act 1 of 1905).

^[1] The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819. It is printed ante, p. 187.

BENGAL REGULATION 4 OF 1828.

[THE BENGAL LAND REVENUE SETTLEMENT REGULATION, 1828][¹]

(7th August, 1828)

[²] A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation 7, 1822 [³]

1 (Preamble) *Rep by the Amending Act, 1903 (1 of 1903)*

2. *First, Second, Third* —(Collectors making or revising settlements empowered to try all questions of property in or possession of lands.) *Rep by the Bengal Land revenue (Settlement and Deputy Collectors) Regulation, 1833 (9 of 1833), s 4*

Fourth —To prevent doubts as to the period for which Collectors[⁴] and other officers [⁵][vested with the powers of a Collector] are to possess the powers vested in the * * * [⁶] by Regulation 7, 1822,[⁷] in regard to any *mahals* of which the settlement may have been, or may be about to be made or revised, it is hereby declared and enacted that they shall be held and considered to be engaged in making and revising such settlement from the date on which they have issued or may issue orders for adjusting the boundaries, for measuring any of the lands or for making a census of the inhabitants of any village or portion of a

Period during which Collectors are to be considered to be engaged in making and revising settlements.

[¹] **SHORT TITLE** —This short title was given by the Amending Act, 1903 (1 of 1903), Sch 1 —see post, p 331

LOCAL EXTENT —S 2 (4), of this Regulation has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed in General Acts, 1868-78 Ed 1903, p 458) to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

Section 2 (4) has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely —

the districts of Hazaribagh, Ranchi, Palam and Manbhum, and Pargana Dhalbhum in the district of Singhbhum, in the Chota Nagpur Division—see Vol IV, Part III

The application of the Regulation is barred in the Angul District, by the Angul Laws Regulation 1913 (3 of 1913), s 3 (2), post p 264, and the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation 1872 (3 of 1872) s 3 (2) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, post, p 232.

[²] This title is obsolete, in consequence of the repeal of clause First of s 2 of the Regulation

[³] The Bengal Land revenue Settlement Regulation, 1822. It is printed ante, p 233

[⁴] As to the exercise of functions of Collectors by other officers, see the Bengal Land—

Regulation 1822, s 35 ante p 267
to substituted for the word "aforesaid," by
—see post, p 703
and, which were repealed by the Amending
Act, 1874 (1 of 1874), s 10 substituted.

(Sec. 2.)

village belonging to such *mahal*, of which intimation shall be given to the Magistrate or Joint Magistrate within whose division the village shall be situated, up to the day on which they may be informed that the settlement, as made and revised by them, has been finally confirmed by Government.

During the aforesaid period * * *^[1] Magistrates and Joint Magistrates * * *^[2] shall be guided, in respect to such *mahals*, by the provisions of clause *Second*, section 34, Regulation 7, 1822,^[3] by which they were required to refer to the Revenue-authorities disputes regarding lands, premises, crops, watercourses and the like.

And all police-officers are required to give immediate and efficient support to Collectors^[4] and other revenue-officers in the execution of their duties.

^[1] The words "the powers vested in," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

^[2] The words and figures "by Regulation 15, 1824, shall be suspended in regard to all *mahals* of which the settlement may be so in progress, and the said officers," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

^[3] The Bengal Land-revenue Settlement Regulation, 1822. It is printed, *ante*, p. 233.

^[4] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 267.

BENGAL REGULATION 1 OF 1829.

[THE BENGAL REVENUE COMMISSIONERS REGULATION, 1829.][¹]

(1st January, 1829)

A Regulation for constituting Commissioners of Revenue and Circuit : * * *.[²]

1. The system in operation for superintending the magistracy and Preamble, the police; and for controlling and directing the executive Revenue-officers, who in several cases are also Magistrates, has been found to be defective.

The Provincial Courts of Appeal and Circuit, as now constituted, partly from the extent of country placed under their authority, and partly from their having to discharge the duties of both civil and criminal tribunals, have, in many cases, failed to afford that prompt administration of justice which it is the duty of Government to secure for the people

The gaol-deliveries have been, in some instances, delayed beyond the term prescribed by law, [*especially in the division of Barcly, which comprises thirteen stations at which gaol-deliveries have to be held, beside the joint magistracies of Bilá and Sirpura,*] and a great arrear of cases under appeal has accrued in all the Courts, to the manifest injury of many individuals and to the encouragement of litigation and crime.

The Judges of Circuit, when employed singly in the districts under their authority, do not possess sufficient powers, nor have they the opportunity of acquiring sufficient local knowledge, to enable them adequately to control the police or protect the people

The great extent of country under each of the Boards of Revenue has similarly operated to impede them in the execution of the duties which belong to them as tribunals for the determination of all questions relative to the assessment of lands under settlement and for the judicial decision

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see post, p 691

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal—

It has in General of Bengal 74), s 6 (printed former Province

The ar Laws Regu by the Son by the Son 1, by the Angul onthal Parganas, (2), as amended 3, post, p 832

[²] The omitted of 1903), and is

(Sec. 2.)

of many other important cases, as the general guardians of the fiscal interests of the State, as directors and superintendents over the executive officers, and as the confidential advisers of Government.

For the correction of the above defects, it has appeared to be expedient and necessary to place the magistracy and police, and the Collectors and other executive Revenue-officers, under the superintendence and control of Commissioners of Revenue and Circuit, each vested with the charge of such a moderate tract of country as may enable them to be easy of access to the people, and frequently to visit the different parts of their respective jurisdictions; to confide to the said Commissioners the powers * * *^[1] that belong to the Boards of Revenue, to be exercised, with the modifications hereinafter provided, * * *^[1] under the instructions and control of a *Sadar* or Chief Board of Revenue, * * *^[1]

With the above views and purposes the Governor General in Council has enacted the following rules to be in force from the 1st March, 1829, throughout the Provinces immediately subject to the Presidency of Fort William.^[2]

Appointment
of Commis-
sioners of
Revenue and
Circuit for
divisions
specified.

2. A Commissioner of Revenue and Circuit shall be appointed for each of the under-mentioned divisions:

Provided, however, that it shall be competent to the Governor General in Council, by an order in Council, to transfer any district or districts from one division to another,^[3] and to increase or reduce the number of Commissioners, if such a measure shall appear to be necessary or expedient; due notice of any such arrangement being given by public proclamation.

							* ^[1]
	[10th Division to contain the districts under the						Saran,
	Magistrates, Collectors, Joint-Magistrates and						Shahabad and
	Sub-Collectors of						Tirhut.
11th	ditto	ditto	of	.	.	.	Patna,
							Bihar and
							Ramgarh.]
12th	ditto	ditto	of	.	.	.	[Bhagalpur,
							Monghyr,]
							Malda [and
							Purnea].

^[1] Portions repealed by the Amending Act, 1903 (1 of 1903), are omitted.

^[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

^[3] For a list of divisions and districts as now existing, see the Bihar and Orissa Quarterly Civil List, Part XXXA. The Divisions of the Province of Bihar and Orissa, as existing on the 1st April, 1912, for administration, revenue and general purposes, were continued by Notification No. 410, dated the 1st April, 1912, in the Gazette of India Extraordinary of that date.

(Secs 3-4)

13th	Division	to contain the districts under the	Magistrates Collectors, Joint Magistrates and Sub Collectors of	{	Dinajpur, Rangpur, Rajshahi and Bogra Murshidabad, Birbhum and Nadia Dacca Jalalpur Tippura and Mymensingh Chittagong and Noakhali	* * [1]
14th	ditto	ditto	of	{		
15th	ditto	ditto	of	{		
16th	ditto	ditto	of	{		
.	.	.	.	.	.	[2]
18th	ditto	ditto	of	.	{	Backergunge, Jessore, Suburbs of Calcutta 24 Parganas and Barasat [Cuttack, Khurda, Balasore,] Midnapore and Nagwan, includ ing High Burdwan, Jungle Mahals and Hooghly
19th	ditto	ditto	of	.	{	
20th	ditto	ditto	of	.	{	

3 (Commissioners invested with powers of Judges of Circuit and Courts of Circuit collectively, period of holding sessions, etc.) *Repealed by the Repealing Act, 1874 (16 of 1874)*

4 First—The said Commissioners shall, until otherwise specifically provided for by law, possess and exercise within the several districts comprised in their respective divisions the powers and authority now vested in the Boards of Revenue and Courts of Wards, subject to the control and direction of a Sadar or Head Board, to be ordinarily stationed at the Presidency, unless otherwise directed by the Governor General in Council, and to such restrictions and provisions as the

Commissioners to have powers of Boards of Revenue and Courts of Wards.

[1] The words "To be placed under the officer appointed to control the affairs of Arakan" which were repealed by the Amending Act 1903 (1 of 1903) are omitted.

[2] Part on repealed by the Repealing and Amending Act 1903 (1 of 1903) is omitted. As to the exercise of the functions of the Board of Revenue by other authorities see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913), s. 3, in Vol III of this Code.

(Secs. 5-10.)

Governor General in Council or the said *Sadar* Board, with his authority or sanction, may prescribe.

Sadar Board and Commissioners how guided as to form of their revenue proceedings.

Second.—In regard to the form of their proceedings in the Revenue Department, the Commissioners and the *Sadar* Board shall be guided by such orders as the Governor General in Council may from time to time issue, and it shall be competent to the Governor General in Council to fix the stations at which the Board and the Commissioners, when not employed on the duties of circuit, shall reside, at such places within the territories belonging to this Presidency as may from time to time be deemed expedient.

When tract within jurisdiction of Magistrate of one division is under Collector of another division.

Third.—Provided also that, in cases in which any tract of country that belongs to the jurisdiction of a Magistrate or Joint Magistrate of one division may be under the authority of a Collector or Deputy Collector attached to another division, the Governor General in Council shall determine, by an order in Council, the nature and extent of the powers to be exercised in regard to the revenue affairs of such tract by the Commissioners respectively with whose divisions it may be so jointly connected.

5. (*Abolition of powers of certain Provincial Courts of Appeal.*) Rep. by the *Repealing Act, 1874 (16 of 1874).*

6. (*Repeal of inconsistent provisions.*) Rep. by the *Amending Act, 1903 (1 of 1903).*

7, 8. (*Offices of Superintendents of Police abolished; Commissioners to perform duties of Superintendents; tender of pardon to accomplices; Powers of Commissioner of Cuttack and Midnapore.*) Rep. by the *Amending Act, 1903 (1 of 1903).*

9. *First.*—(*Powers of Commissioners of Arakan and Assam.*) Rep. by the *Amending Act, 1903 (1 of 1903).*

Second.—(*Conferment of powers on the Commissioner for the districts of the Northern Doab, etc.*) Rep. (except in certain Scheduled areas) by the *North-Western Provinces Land-revenue Act, 1873 (19 of 1873).* (*Conferment of powers on the Resident at Delhi.*) Rep. in part by *Ben. Reg. 6 of 1831, s. 8; residue rep. by Ben. Reg. 10 of 1831, s. 4.*

10. (*Abolition of office of mufassal special Commissioner; modification of practice under Regs. 1 of 1821 and 1 of 1823.*) Rep. by the *Amending Act, 1903 (1 of 1903).*

BENGAL REGULATION 17 OF 1829.

[THE BENGAL SATI REGULATION, 1829.][¹]

(4th December, 1829.)

A Regulation for declaring the practice of *sati* or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.

1. The practice of *sati* or of burning or burying alive the widows of Hindus is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindus as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed: in some extensive districts it does not exist; in those in which it has been most frequent it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindus themselves and in their eyes unlawful and wicked.

The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether.

Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), Sch. III.—see post, p. 611.

LOCAL EXTENT.—This Regulation was passed for the whole of the former Province of Bengal.

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FURTHER ENACTMENTS AS TO HINDU WIDOWS.—As to re-marriage, see the Hindu Widows Re-marriage Act, 1856 (15 of 1856), in General Acts, 1834-67, Ed. 1909, p. 121.

As to non forfeiture of rights or property by loss of caste, see the Caste Disabilities Removal Act, 1850 (21 of 1850), ib., p. 79.

(Secs. 2-3.)

establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William.[¹]

Sati declared illegal and punishable.

2. The practice of *sati* or burning or burying alive the widows of Hindus is hereby declared illegal and punishable by the Criminal Courts.

Zamindars, etc., responsible for immediate communication to police of intended sacrifice.

3. *First*.—All *zamindars*, *talukdars* or other proprietors of land, whether *malguzari* or *lakhiraj*, all *sadar* farmers and under-renters of land of every description, all dependent *talukdars*, all *naibs* and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards[²] and all *mandals* or other headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section; and any *zamindar* or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.

Penalty in case of neglect.

Police how to act on receiving intelligence of intended sacrifice.

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police *daroga* shall either repair in person to the spot, or depute his *muharrir* or *jamaadar*, accompanied by one or more *barkandazes* of the Hindu religion, and it shall be the duty of the police-officers to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime and become subject to punishment by the Criminal Courts.

Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it; and in the event of the police-officers being unable to apprehend them they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

[¹] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[²] The law relating to the Court of Wards in Bihar and Orissa is the Court of Wards Act, 1879 (Ben. Act 9 of 1879), printed in Vol. II of this Code.

(Secs. 4-5.)

Third.—Should intelligence of a sacrifice declared illegal by this Regulation not reach the police-officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

How to act when intelligence of sacrifice does not reach them until after it has taken place.

4, 5. (*Trial of persons concerned in the sacrifice; sentence of death by Court of Nizamat Adalat.*) Rep. by Act 17 of 1862.

BENGAL REGULATION 5 of 1830.

[THE BENGAL INDIGO CONTRACTS REGULATION, 1830.][¹]

(9th June, 1830.)

A Regulation * * * [²] relating to the cultivation and delivery of indigo-plant.

1. * * * * * [³]

whereas it is desirable in certain cases to afford persons who may be Preamble.
unwilling to renew their contracts for the cultivation of indigo the means
of obtaining, by summary process, a release from their engagements;

the following rules have been enacted, to be in force from the date
of their promulgation throughout the territories subject to the Presidency
of Fort William.[⁴]

2. (*Criminal prosecution of persons inducing raiyats to break contract.*) Rep. by the Repealing Act, 1868 (8 of 1868).

3. (*Cultivators failing to fulfil engagements liable to imprisonment.*)
Rep. by Act 16 of 1835.

4. (*Punishment of persons damaging indigo-plant.*) Rep. by Act 3
of 1857.

5. First.—Any person who, having received advances under a written agreement for the cultivation of indigo, shall be desirous, on the expiration of the period of his contract, to settle his account, shall be at liberty, in the event of the proprietor of the factory, or the person acting in his behalf, refusing to settle the same, to present a petition to the Zila Court; Procedure by persons wishing to be released from their engagements.

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see post, p. 601.

LOCAL EXTENT.—This Regulation was enacted for the whole of the former Province of Bengal—see the concluding paragraph of s. 1.

Sections 1 and 5 of the Regulation have been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1903, p. 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts.

The application of the Regulation in the de-regulationised tracts in Bihar and Orissa is barred as follows, namely:—

in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), post, p. 852; and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, post, p. 820.

[²] Words in the title and preamble which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[³] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

(Sec. 5.)

and the Judge, after a summary inquiry, in the presence of the parties or their authorized agents, into the merits of the case, shall, on proof of the expiration of the contract, and of there being no balance due from the petitioner, or if the petitioner shall deposit in Court the amount of any balance that may be adjudged to be due from him, grant the said petitioner a release from his engagement, and shall pay over the amount of any balance that may be deposited by him to the proprietor, or to the person acting in his behalf.

Procedure if
proprietor
objects to
receive
balance.

Second.—If the proprietor or person aforesaid shall refuse to receive the balance awarded to him by the summary process above provided, the Judge shall return the amount to the petitioner, leaving the defendant to seek his remedy by a regular suit.

BENGAL REGULATION 9 OF 1833.

[THE BENGAL LAND-REVENUE (SETTLEMENT AND DEPUTY COLLECTORS) REGULATION, 1833][']

(9th September, 1833)

A Regulation to modify certain portions of Regulation 7 of 1822[²] * * * [³] to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in settlements under the above [⁴][Regulation]; for enforcing the production of the village-accounts; for the more extensive employment of native agency in the Revenue Department; and to declare the intent of section 5, Regulation 7 of 1822,[²] touching claims to *malikana*.

1. Experience having demonstrated the expediency of modifying Preamble. certain enactments of Regulation 7 of 1822[²] * * * [³], also of providing a more speedy and satisfactory mode of deciding such judicial questions as may be cognizable by officers of the Revenue Department under [⁴][that Regulation] and of declaring the intent of the rules regarding *malikana* promulgated by section 5, Regulation 7 of 1822 [²]; it having been found expedient likewise that measures should be adopted for enforcing the production of the village accounts, and for rendering them accessible to all persons concerned having occasion to examine them; also that natives of respectability should be employed in more important trusts connected with the revenue administration, the follow-

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch. I—see post, p. 691.

LOCAL EXTENT.—The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely—

the districts of Hazaribagh, Ranchi Palamau and Manbhum and Pargana Dhalbhum in the district of Singhbhum in the Chota Nagpur Division—see Vol. IV, Part III

Its application in the de-regulationised tracts is barred as follows namely—

in the district of Angul, by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (²), post, p. 864 and

in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation 1899 (13 of 1899), s. 2, in the Sonthal Parganas Justice and Laws

[²] T. It is printed ante, p. 233.
[³] T. in the title and s. 1, which
were reg. omitted
" eu for the word "Regulations"
" p. 708
" substituted for the words "those
" II—see post, p. 708

ing provisions have been enacted, to be in force from the date of their promulgation.

2. (*Repeal of provisions of Regulation 7, 1822, as to mode of determining jama to be demanded from mahal.*) Rep. by the Amending Act, 1903 (1 of 1903).

3. (*Repeal of provisions of Regulation 7 of 1822 as to investigation of claims simultaneously with determination of Government demand.*) Rep. by the Amending Act, 1903 (1 of 1903).

The Governor General in Council will hereafter determine the order in which the above matters shall be respectively disposed of.

4. (*Repeal of parts of the Bengal Land-Revenue Settlement Regulation, 1828 (4 of 1828).*) Rep. by the Repealing Act, 1874 (16 of 1874).

5. In addition to section 33, Regulation 7 of 1822^[1] it is hereby enacted that whenever any judicial question may be depending before a Collector^[2] or other officer employed in making settlements under the provisions of Regulation 7 of 1822,^[1] in which the interests of justice may, in the opinion of such officer, require that the case be decided by arbitration, it shall be lawful for him to fix, under the instructions with which he may be furnished by the superior Revenue-authorities, a period within which the parties must produce the award.

6. In that case, if the parties shall refuse or neglect to produce such award within the term limited, it shall be lawful for the Collector^[2] or other officer to summon a *panchayat*, to be composed of three or five impartial and otherwise competent persons of good repute for the trial of the matter at issue.

7. After duly considering the statements and evidence offered by the parties, or, in case of the default or recusance of either, the statements and evidence produced by the party in attendance, the *panchayat* shall declare their opinions, and judgment shall be recorded according to the sentence of the majority.

The superior Revenue-authorities will from time to time issue such rules of practice for the guidance of the officers employed on this duty, or the *panchayats*, as they may consider necessary.

8. No appeal shall be allowed from such decisions, which shall be immediately executed and maintained, unless the Commissioner, subject to the control of the * *^[3] Board of Revenue^[4] should think proper,

[1] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 233.

[2] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 267.

[3] The word "Sadar," in s. 8, which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[4] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 5, in Vol. III of this Code.

When Collector making settlements considers arbitration necessary, he may fix period for production of award.

When Collector may summon *panchayat*.

Procedure of *panchayat*.

Bar of appeal :— submission to second *panchayat*.

(Secs. 9-16.)

for any special reason, to direct that the case shall be submitted to another *panchayat* for decision.

9. Any suit brought before any Court of Justice to set aside a decision made in conformity with the above rules shall be non-suited with costs. Non-suit of suit to set aside decision also suits against arbitrators.

10. In like manner any suit brought before any Court of Justice against the arbitrators, collectively, or individually, appointed in conformity with the rules prescribed, to recover from them the value of the property lost by the decision founded on their award, shall be non-suited with costs.

11. It is hereby declared that the rules concerning *malikana* contained in section 5, Regulation 7 of 1822,^[1] were intended to have a prospective effect only, and to be applicable solely to settlements made under that Regulation, and to recusance tendered at the completion of such settlements. Intention of rules as to *malikana* in section 5, Regulation 7, 1822.

12. It is further enacted that the village-accounts which are required to be kept in such manner and form as has heretofore been the custom, or in such other mode as may hereafter be prescribed by the ^[2][Board] of Revenue^[3] shall be prepared in duplicate sets—one for deposit in the office of *patwari*, and one for deposit in the office of Collector of the district in which the respective estates or tenures may be situated, and, wherever the office of a *lanungo* may be established, a third copy shall be prepared and deposited in that office. Village-accounts.

13. The several accounts required for deposit in the *pargana* and *Zila* revenue-offices, as above stated, instead of being delivered at the expiration of every six months, as prescribed by the rules at present in force, shall be furnished in such mode and at such periods as the ^[2][Board] may direct. Accounts to be furnished according to directions of Board.

They shall be open to the inspection of every person concerned desirous of examining them.

14, 15. (*Penalties to landholders for not conforming to rules regarding village accounts.*) Rep. by the Bengal Rent Act, 1859 (10 of 1859).

16. It shall be competent to the^[4] [Local Government] to appoint to any revenue-jurisdiction a Deputy Collector, with the powers herein-after specified. Appointment of Deputy Collector.

[1] The Bengal Land revenue Settlement Regulation, 1822. It is printed *ante*, p. 233.

[2] This word "Board," in ss 12 and 13, was substituted for the word "Boards" by the Repealing and Amending Act, 1903 (1 of 1903), Sch II—see *post*, p. 703.

[3] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol III of this Code.

[4] The words "Governor General in Council," in the original text, are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (1 of 1903), Sch II, *post*, p. 703.

(Secs. 17-25.)

17, 18. (*Eligibility, mode of appointment and monthly allowance.*) *Rep. by the Repealing and Amending Act, 1914 (10 of 1914).*

19. (*Solemn declaration to be made by Deputy Collectors.*) *Rep. by the Indian Oaths Act, 1873 (10 of 1873).*

Subordina-
tion of
Deputy
Collectors.

20. The Deputy Collectors appointed^[1] under this Regulation are to be in all respects subordinate to the Collector^[2] under whom they may be placed, and are required to perform all duties assigned to them by that functionary.

Duties in
which Collect-
ors may
employ them.

21. It will be at the discretion of the latter officer to employ them in settlement-duties under the provisions of Regulation 7, 1822,^[3] in the superintendence of the Government *khas mahals*, and generally in the transactions of any other part of the duties of a Collector.^[2]

Their pro-
ceedings how
recorded and
how appeal-
able.

22. All proceedings held by a Deputy Collector appointed under this Regulation shall be recorded in his own name and on his own responsibility, subject to the revision and control of the Collector^[2] and appealable to the superior authorities in the usual course.

Collector may
resume duties
committed to
Deputy.

23. Provided always that the Collector^[2] is competent to resume the duties which he may have committed to the Deputy, assigning his reasons for so doing for the information of the Commissioner.

Interference
by Commis-
sioners with
arrangements
of Collectors
for employ-
ment of
Deputies.

24. Provided also that the Revenue Commissioners, whenever they think proper, may interfere with any arrangements made by the Collector^[2] for the employment of the Deputies, or the distribution of business to be assigned to those functionaries, subject to the general control vested in the * * *^[4] Board of Revenue^[5] or the Government, as the case may be.

25. (*Rules regarding dismissal of Deputy Collectors.*) *Rep. by the Repealing and Amending Act, 1914 (10 of 1914).*

[¹] Cf. s. 16, *ante*, which gives the power of appointment to the Local Government.

[²] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, *ante*, p. 267.

[³] The Bengal Land-revenue Settlement Regulation, 1822. It is printed *ante*, p. 233.

[⁴] The word "Sadar," in ss. 24 and 25, which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[⁵] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

PART II—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL
IN FORCE IN THE PROVINCE OF BIHAR AND ORISSA.

ACT 10 OF 1836

[THE BENGAL INDIGO CONTRACTS ACT, 1836] [1]

(11th April, 1836)

1. (*Repeal of cl 3 of s 5 of Ben Reg 6 of 1823*) *Rep by the Repealing Act, 1870 (14 of 1870)*

2. [2] Whenever the right to indigo-plant may be contested and an order shall be passed under the provisions of clause *Ninth*, section 3, Regulation 6, 1823,[3] of the Bengal Code, for the delivery of indigo-plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo plant until he shall have given sufficient security to the satisfaction of the Court trying the case to make good any claim that shall be ultimately established to such indigo plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced

Security to be given by person desiring to remove indigo plant ordered to be delivered to him.

3. [2] When a lawful contract shall have been made between a *rayyat* and another party, by which contract the *rayyat* shall have bound himself to cultivate indigo plant for the other party, or to deliver indigo-plant to the other party, and when the other party shall have advanced money to the *rayyat* for the purpose of enabling the *rayyat* to fulfil such contract, then if any other person, knowing that such contract exists

Right of suit of person making advances for cultivation or delivery of indigo plant when breach of contract is induced by third person.

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see *post*, p 692.

LOCAL EXTENT.—This Act has been declared by the Laws Local Extent Act, 1874 (15 of 1874) s 6 (printed in General Acts 1868-73, Fd 1909, p 459), to be in force throughout the former Province of B

The Act has been declared, by (14 of 1874), s 3, to be in force in Manbhum, and Pargana Dhalbhum Districts, Palamau and Bhubhum, in the Chota Nagpur Division—see Vol IV, . . .

The application of the Act in the de-regulationised tracts in Bihar and Orissa is barred as follows, namely—

in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (*), *post* p 864, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872) s 3 (*) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3 *post*, p 832.

[2] Formal words in ss 2 and 3, which were repealed by the Repealing Act, 1874 (16 of 1874) are omitted.

[3] The Bengal Indigo Contracts Regulation, 1823 S 3 (5) is printed *ante*, p 273.

(Secs. 4-5.)

and that such advance has been made, shall prevail upon the *raiyat* to break such contract, the party who made the advance shall be entitled to proceed by civil action against the person who shall have so prevailed on the *raiyat*, as well as against the *raiyat*, and to recover from him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit:

Bar of suit
for act done
to recover
debt or secure
performance
of lawful con-
tract.

Provided always that nothing in this section contained shall be construed to give a right of action against any person in consequence of any act which that person may have done for the purpose of procuring payment of a debt or performance of a lawful contract.

Power to
examine both
plaintiff and
defendant in
suit, and to
award com-
pensation to
successful
defendant.

4. [1]The Court trying any suit instituted under the provisions of Regulation 6, 1823,[2] of the Bengal Code, or under the provisions of this Act shall be authorised to examine both the plaintiff and the defendant whenever the Court shall deem such examination necessary to the ends of justice; and, if the award be in favour of the defendant, to assign to the defendant a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding.

5. (*Power to refer certain suits to a Principal Sadar Amin or Sadar Amin.*) Rep. by the Repealing Act, 1868 (8 of 1868).

[1] Formal words in s. 4, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The Bengal Indigo Contracts Regulation, 1823. It is printed *ante*, p. 273.

ACT 21 of 1836.

[THE BENGAL DISTRICTS ACT, 1836][¹]

(11th September, 1836.)

[²] It shall be lawful for [³][the Local Government, with the previous sanction of the Governor General in Council, by notification in the local official Gazette,] to create new *zilas* in any part of the Presidency of Fort William in Bengal[⁴] • • [⁵]

Power to
create new
zilas.

[¹] SHORT TITLE—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—*see post*, p 692

LOCAL EXTENT—This Act was passed for the whole of the former Province of Bengal. It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868 78, Ed 1909, p 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the district of Singhbhum, in the Chota Nagpur Division—*see* Vol IV, Part III

It is also in force in the Sonthal Parganas—*see* Vol IV, Part IV, but its application is barred in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s. 3, *post*, p 864

DEFINITIONS—For references to a number of definitions of the word "district," *see* the Index to the Indian Statutes, Ed 1911, p 1069

[²] Formal words repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[³] The words "the Governor General in Council, by an Order in Council," in the original text, are to be read as if the words "the Local Government, with the previous sanction of the Governor General in Council, by notification in the local official Gazette" were substituted therefor—*see* the Amending Act 1903 (1 of 1903), Sch II, *post*, p 708

[⁴] This includes the present Province of Bihar and Orissa except the district of Sambalpur

[⁵] The words "and to alter the limits of existing *zilas*," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

OTHER ENACTMENTS—Power to alter the limits of districts is given by the Bengal Districts Act, 1864 (Ben Act 4 of 1864), in Vol II of this Code Power to alter the limits of Collectorships is also given by the Bengal Land revenue (Assistant Collectors) Regulation, 1821 (4 of 1821), s. 8 (1), *ante*, p 225 Power to transfer districts from one Division to another is given by the Bengal Revenue Commissioners Regulation, 1829 (1 of 1829), s. 2, *ante*, p 323.

For a list of districts as now existing, *see* the Bihar and Orissa Quarterly Civil List, Part XXXA.

ORDER.—For an order made under this Act, *see* the Bihar and Orissa Local Statutory Rules and Orders, Vol I, Part IV.

ACT 12 OF 1841.

[THE BENGAL LAND-REVENUE SALES ACT, 1841.][¹]

(19th July, 1841.)

An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.

1. (*Preamble and repeals.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. [²] There shall be no demand of interest or penalty upon any arrear of land-revenue * * * .[²]

3 to 35. (*Sale of land for arrears of revenue; local extent; commencement.*) *Rep. by Act 1 of 1845.* Interest and penalty abolished.

[¹] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see post, p 692.

LOCAL EXTENT.—S 2 of this Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed in General Acts, 1868 78, Ed 1909, p 453), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

The section has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum in the district of Singhbhum, in the Chota Nagpur Division—see Vol. IV, Part III It is in force in the Sonthal Parganas, see Vol. IV, Part IV.

the district of Angul by the Angul-Laws
the Repealing Act, 1874 (16 of 1874), are

[²] The words and figures " which shall fall due after the date specified in s 35 of this Act," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

(8th May, 1847.)

1. It is hereby enacted that such parts of the Regulations of the Bengal Code as establish tribunals and prescribe rules of procedure for investigations regarding the liability to assessment of lands gained from the sea or from rivers by alluvion or dereliction, or regarding the right of Government to the ownership thereof, shall, from the date of the passing of this Act, cease to have effect within the Province[s] of [Bengal,] Bihar and Orissa * * * * [2]; and that no measures shall hereafter be taken for the assessment of such lands, or for the assertion of the right of Government to the ownership thereof except under the provisions of this Act.

2. ['] [The expression "Province of Orissa," in this Act, shall be "Province of Orissa" defined.
taken' to mean only so much of the Province of Orissa as is subject to the Government of Bengal.]

3. [3] Within the said Provinces it shall be lawful for the Govern- Power to
ment of Bengal, in all districts or parts of districts of which a revenue- direct new
surveys of

[¹] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see post, p. 692.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—*see* the title.

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-78, Ed. 1909, p. 458), to be in force throughout the former Province of Bengal, except as regards the C. L. J. J. T. J. J. J.

1874), s. 3, to be in 1574 (14 of
and Pargana Dhalb Manbhūm,
Nagpur Division, sec. the Chota
Vol. IV, Part IV. at 25 in 1000 in the Southern Parganas—see

The application of the Act is barred in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p 864

INTERVAL BETWEEN SURVEYS—In any district in which a survey has been completed and approved by the Government, a new survey of lands on the banks of rivers or on the seashore may not be ordered to be made for the purposes described in Act 9 of 1847 until ten years have expired from the completion and approval of the previous survey—see the Bengal Survey Act, 1875 (Ben Act 5 of 1875), s. 3, in Vol. II of this Code.

(7) The words "and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date shall forthwith be discontinued," in s. 1, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

(2) Formal words in ss. 2 and 3, which were repealed by the Repealing Act, 1874 (16 of 1874) are omitted.

['] This refers to the former Province of Bengal.

(Secs. 8-9.)

8. (*Exception of certain suits from operation of Act.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

9. * * * [1] no suit or action in any Court of Justice shall lie against the Government or any of its officers on account of anything done in good faith in the exercise of the powers conferred by this Act. Indemnity-
clause.

[1] Formal words in s 9 which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted. The words "except as regards the proprietary right to islands," in s. 9, which were repealed by the Amending Act, 1903 (1 of 1903), are also omitted.

ACT 20 OF 1848.

[THE BENGAL LANDHOLDERS' ATTENDANCE ACT, 1848.][¹]

(23rd September, 1848.)

An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency.[²]

Whereas, by sundry Regulations of the Bengal Code, provision is Preamble made for the imposition of a daily fine by the Board of Revenue or other authority exercising the powers of that Board on any proprietor or farmer of land, subject to the provisions contained in the said several Regulations, who, when duly summoned by the Collector or other officer exercising the powers of Collector, shall omit or refuse to attend, or to cause his officer or agent to attend, or to furnish the accounts or documents required, and shall not show sufficient cause for such omission; and it is further provided that the fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue;

And whereas in many cases, by the delay thus occasioned, the whole burden of the penalty is greatly increased beyond what would be necessary if summary power were given to the officer by whom the requisition

[¹] **SHORT TITLE.**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—*see post*, p 692

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—*see the title*

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed in General Acts, 1883 78, Fd 1909, p 458), to be in force throughout the former Provinces of Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan in the district of Singhbhum in the Chota Nagpur Division, *see Vol IV, Part III*

The Act is in force in the Sonthal Parganas—*see Vol. IV, Part IV*, but its application is barred in the district of Angul by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2), *post*, p 864

OTHER ENACTMENTS.—As to the attendance of landholders or their agents, *see also*—the Bengal Land revenue Regulation, 1793 (2 of 1793), s. 33, *ante*, p 34;

the Bengal Land revenue Assessment Regulation, 1801 (1 of 1801), s. 10, *ante*, p 83;

the Bengal Patwaris Regulation, 1817 (12 of 1817), ss. 29, 31, 32, *ante*, pp. 159, 160 and 161;

the Bengal Land revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819), s 13 (3), *ante*, p 194;

the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s 19, *ante*, p. 255; and

the Bengal Land revenue Settlement Regulation, 1825 (9 of 1825), s 5 (2), *ante*, p. 272.

[²] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

(Secs. 1-7.)

is made to impose and levy reasonable fines, subject to review by the Commissioner of Revenue and other superior authority;

It is enacted as follows:—

Penalty on
landholders
not attend-
ing when
summoned by
Collector.

1. If any proprietor or farmer of land shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector, in any case specified in any of the said Regulations, by the time prescribed in the notice issued by the Collector, or shall omit or refuse to furnish the accounts or documents required, and shall not show sufficient cause for such omission, the Collector may impose of his own authority such daily fine, to be payable daily until compliance with the requisition, as he may think adequate to the situation and circumstances in life of the defaulter, not exceeding in any case the daily fine of fifty rupees: and the amount of such fine, accruing due from time to time, may be levied without further confirmation by the same process^[1] as is prescribed for the recovery of arrears of revenue.

Levy of fine.

Report of im-
position and
levy of fine.

2. The Collector shall forthwith report the imposition of every such fine, and the amount thereof, and also from time to time the amount levied, to the Commissioner of Revenue, who shall report the same for the information of the Local Government.

Appeals from
Collector's
orders.

3. Every order passed by a Collector under this Act shall be appealable in the usual manner to the Commissioner of Revenue and other superior authority; but no such appeal shall avail to prevent the levy of any fine so imposed pending the appeal.

Special report
of levy ex-
ceeding five
hundred
rupees.

4. Whenever the amount levied under any such order issued for any default by authority of a Collector under this Act shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of Revenue; and no further levy for such default shall be made otherwise than by authority of the Commissioner of Revenue.

Saving of
fine.

5. Nothing in this Act contained shall be deemed to repeal the power of imposing daily fines and of levying the fines so imposed in the manner prescribed by the said several Regulations.

'Collector'
defined.

6. The word "Collector" used in this Act shall be taken to mean any person lawfully exercising the powers of a Collector.

Extent of
Act.

7. This Act shall not extend to the North-West Provinces^[2] of the Presidency of Bengal.

^[1] See the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), s. 4, in Vol. III of this Code.

^[2] The designation of these Provinces has been changed—see the United Provinces Designation Act, 1902 (7 of 1902), in General Acts, 1898-03, Ed. 1909, p. 566.

ACT 25 OF 1850.

(THE FORFEITED DEPOSITS ACT, 1850) [1]

(14th June, 1850)

An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation 8, 1819[2]
• • • [3]

Whereas *patnidars* • • • [4] fraudulently avail themselves of the Preamble provision [5] in section 9, Regulation 8, 1819,[2] of the Bengal Code • • • [6] that forfeited deposits at sales of land • • • [7] for arrears of rent shall be applied as if they were purchase-money, It is enacted as follows:—

1. (*Repeals*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. Any such forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government. Application of forfeited deposit^s +

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch III—*see post*, p 611

LOCAL EXTENT.—Since this Act supplements Ben Regulation, 8 of 1819 it must be taken to have been passed, like that Regulation (*ante*, p 187), for the whole of the former Province of Bengal

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan in the district of Singhbhum in the Chota Nagpur Division, *see* Vol IV, Part IV

The Act is in force in the Sonthal Parganas—*see* Vol IV, Part IV, but its application is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), printed, *post*, p 864

[2] The Bengal Patni Taluks Regulation, 1819. It is printed, *ante*, p 206

[3] The words and figures "and Act 4, 1846," in the title, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted

[4] The words "and judgment debtors," in the preamble, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted

[5] The provision here referred to was repealed by s 1 of the present Act

[6] The words and figures "and in section 5 Act 4, 1846," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted

[7] The words "in execution of decrees or," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

ACT 6 OF 1853

(THE RENT RECOVERY ACT, 1853) [1]

(15th April, 1853)

An Act relating to summary suits for arrears of rent, to sales of *patni taluks* and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.

[Whereas by Regulation 8, 1831,^[2] of the Bengal Code the hearing and decision of summary suits or claims relating to arrears or exactions of rents were transferred from the Judges of the Zila or City Courts to the Collectors of land revenue of the several districts;

And whereas by Regulation 7, 1832,^[3] of the Bengal Code, the conduct of sales of *patni taluks* and other saleable tenures under Regulations 8, 1819,^[4] and 1, 1820,^[5] of the same Code, and the performance of other acts preparatory to, or connected with, such sales, were transferred to the Collector or Deputy Collector of Land-revenue or Head Assistant to the Collector or Deputy Collector, subject to an appeal as therein provided,

And whereas by Act 8, 1835,^[6] the power theretofore vested in the Judge of the *Dewan Adalat* of selling land in satisfaction of summary decrees for rent was transferred to the Collectors of Land-revenue, and it was enacted that all sales for the recovery of arrears of rent held under clause 7, section 15, Regulation 7, 1799,^[7] should be conducted by the Collector, his Deputy or duly authorized Assistant, and that ten days' notice should be given of such sales by advertisement to be stuck up at

[1] **SHORT TITLE.**—This short title was given by the Amending Act, 1897 (5 of 1897), Sch III—see post, p. 611

LOCAL EXTENT.—This Act contains no local extent clause, but the intention probably was that it should extend to the same areas as the enactments cited in the preamble.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan in the district of Singhbhum in the Chota Nagpur Division, see Vol IV, Part III

The Act is in force in the Sonthal Parganas—see Vol IV, Part IV but its application is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s. 3 (2) post, p. 664

[2] Ben. Reg. 8 of 1831 was repealed by the Bengal Rent Act, 1859 (10 of 1859), Sch I

[3] Ben. Reg. 7 of 1832 was repealed by the Bengal Patni Taluks Regulation

[4] The Bengal Patni Taluks Regulation

[5] The Bengal Patni Taluks Regulation

[6] Act 8 of 1835 and Ben. Reg. 7 of (15 of 1874),

74

(Secs. 1-3.)

The catcherry of the Zila Court or local Adalat and that of the Collector
 * * * * *;[¹]

And whereas doubts may be entertained as to who ought to exercise the jurisdiction transferred by the above-mentioned Regulations and Acts, where lands situate within the *zila* or other district of one Collector form part of an entire estate paying revenue to the Collector of another *zila* or district;

in order therefore to avoid such doubts, and also to define who are the proper officers to exercise such jurisdictions in cases where lands are situate in a district assigned to an independent Deputy Collector, and also in cases where lands held in *patni* or other tenure at one entire rent are situate in two or more Collectorates * * * * *;[²]

It is enacted as follows:—

Conduct of
sale of lands
when all in
one collector-
ate;

1. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one collectorate, the Collector of such collectorate is the Collector to conduct the sale or to hear and decide the suit.

when in two
or more
collectorates.

If one *taluk* or tenure shall comprise lands situate in two or more collectorates, or if any lands situate in two or more collectorates be held under one lease or engagement or at one entire rent, the Collector in whose collectorate the greater part of such lands shall be situate is the Collector to conduct the sale of such *taluk* or tenure or of such lands, and to hear and decide any summary suit relating to arrears or exactions of rent in respect thereof.

Procedure in
case of doubt
as to officer
having
jurisdiction.

2. If a Collector to whom application shall be made to exercise any of the powers above-mentioned shall entertain any doubt as to whether the lands or the greater part of them are situate within his collectorate, he shall report the case for the order of the Board[³] to which he is subordinate, and, if ordered by such Board[³] to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.

tor-
defined.

3. The word "Collectorate" in this Act means the *zila* or other district to which a Collector is appointed, and no lands situate beyond the limits of such *zila* or district shall be deemed to be situate within the collectorate by reason of their forming part of an estate paying revenue to the Collector thereof.

[¹] Portion of the preamble relating to Act 25 of 1850 and Regulation 8 of 1819, s. 9, which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

[²] The words "and to prevent any such decision or sale already made from being held invalid upon the ground of its having been made by an officer of a wrong district," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[³] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

(Secs. 4-10.)

4. An independent Deputy Collector may, within his Deputy collectorate, exercise all the powers and jurisdictions of a Collector with which he may be entrusted, in the same manner and to the same extent as a Collector may do within his Collectorate; and, with reference to the exercise of such powers and jurisdictions, his Deputy collectorate shall be deemed a collectorate, and he shall be deemed to be a Collector within the meaning of this Act. Powers & jurisdiction of independent Deputy Collector

5. An independent Deputy Collector is an officer appointed by Government to act as Deputy Collector independently of a Collector, whether his office is one for the receipt of revenue or not "Independent Deputy Collector"

A Deputy collectorate is the district within which an independent Deputy Collector is directed by Government to act. "Deputy collectorate"

6. In cases of sales by an independent Deputy Collector under the above-mentioned Regulations or Act, any notice thereby required to be stuck up at the *cutcherry* of the Collector may be stuck up at the *cutcherry* of the Deputy Collector. Publication of notice of sale by independent Deputy Collector

7. An independent Deputy Collector may exercise the powers assigned to him over any part of his Deputy Collectorate in public *cutcherry*, in whatever part of his Deputy collectorate the same may be situate or held. Exercise of powers of independent Deputy Collector

8. Any notice required by the above-mentioned Regulations or Act to be given by advertisement to be stuck up at the *cutcherry* of the Zila Court or local *Adalat* shall be stuck up at the Zila Court or local *Adalat* within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate. Publication of notice required by law to be advertised

9. (*Order, etc., not to be disputed on ground that Collector was not the Collector of proper district.*) *Rep. by the Repealing Act, 1873 (12 of 1873).*

10. (*Extension of certain enactments to all sales under Act 8 of 1835.*) *Rep. by the Bengal Rent Recovery (Undertenures) Act, 1865 (Bcn. Act 9 of 1865).*

CONTENTS.

SECTION 4

- (Repeated)
- "Embankment" defined
- : : ing public embankments, etc.
: endangering public one
r making new one
- ng charge, etc.
- Issue of proclamation
- Clause 2—Publication of proclamation
- Clause 3—Procedure on appearance of parties
- Clause 4—Appeal from orders of Superintendent and Commissioner
- Clause 6—Orders not open to revision by Civil Court
- Charging cost of maintaining private embankments in charge of Government officers
- Proviso
- Clause 1—Compensation for damages
- Clause 2—Appointment of arbitrators
- Clause 3—Arbitrator how chosen when there are several claimants for compensation.
- Arbitration ..
.. .. . arbitrators
.. .. . l, fresh arbitrators may

be chosen
- Clause 8—Collector to furnish information to arbitrators,
and to enforce attendance and examination of witnesses, etc.
Penalty on witness not appearing
Penalty for false deposition
- Clause 9—Award of arbitrators
- Clause 10—When payment of compensation may be deferred
- Clause 11—Reversal or alteration of award
- Clause 12—Dismissal of suits against Government
- Proviso
- Clause 13—Estimated value of benefit to be set off against compensation awarded
- Clause 14—Exception of cases of compensation in respect to hufa, trees or crops
- Clause 1—Application by landholder to have sluice made in public embankment.
- Clause 2—Officer in immediate charge to report on proposed work
- Clause 3—Upon applicant engaging to defray cost, Collector may issue certificate
- Opening of sluices
- Officer in immediate charge may authorize temporary water-course, etc., to be made
- Annual specifications and estimates for maintaining or improving embankments kept up at expense of samindars
- Accounts to be forwarded to Collector, who may recover as arrears of Government revenue.

SECTION.

12. *Clause 1.*—Superintendent to report to Collector as to removal of buildings,
etc.
- Clause 2.*—Collector to give notice to claimants.
- Clause 3.*—Selection of jury.
- Clause 4.*—Proceedings of jury.
- Clause 5.*—Award of jury.
13. After award, Collector to give notice of payment, and to remove buildings, etc.,
in thirty days.
14. When Collector may remove buildings, etc., at cost of owners.
15. Penalty for obstructing officer in discharge of duty.
16. Penalty for wilful damage to embankment by cutting, etc.
17. Penalty for other wilful damage.
18. Jurisdiction of Deputy or Assistant Magistrate.
19. (*Repealed.*)
20. Right of appeal.
21. Interpretation.

(Sec. 5.)

with them part of a line of embankments, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the officers of Government.

Removing private embankment endangering public one.

Clause 2.—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

Changing line of embankment or making new one.

Clause 3.—He may also, when necessary, change the line of any public embankment, or make a new embankment.

Enlarging embankment, etc.

Clause 4.—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof.

Notice to Collector before taking charge, etc.

5. Clause 1.—Before the Superintendent shall cause any of the works mentioned in the first three clauses of the next preceding section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do.

Issue of proclamation.

Upon the receipt of such notice the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Publication of proclamation.

Clause 2.—The proclamation shall be published by affixing the same in the *cutcherry* of the Collector, the *mal cutcherry* (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof.

The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested.

Procedure on appearance of parties.

Clause 3.—The Collector shall hear the objections of any parties who may appear, and, after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly.

If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

Appeal from orders of Superintendent and Commissioner.

Clause 4.—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue, and every order of the Commissioner shall be appealable to the Board of Revenue^[1]; but no appeal

[¹] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

(Secs. 6-7.)

shall lie against any order passed under this section, unless the same be presented within one month from the date of the order.

Clause 5.—Subject to the right of appeal above-mentioned and to the orders and control of Government, every order passed under this section shall be final and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed. Orders not open to revision by Civil Court.

6. Whenever the Superintendent of Embankments shall hereafter cause an embankment which any person is bound to keep up to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to such person: Charging cost of maintaining private embankments in charge of Government officers. Proviso.

Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government.

7. *Clause 1.*—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the district, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the order of the superior Revenue-authorities. Compensation for damages.

If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have had to recover such compensation by a civil action; but such action shall not lie unless the claimant shall have first preferred his claim to the Collector within the period above mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection.

If the claim for compensation be admitted by the Revenue-authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior Revenue-authorities. [1]

Clause 2.—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator. Appointment of arbitrators.

The appointment shall be in writing, and neither of the said parties shall have power to revoke the same without the consent of the other.

[1] For a restriction upon the payment of compensation, see the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866), s. 1, in Vol. II of this Code.

(Sec. 7.)

Arbitrator
how chosen
when there
are several
claimants for
compensa-
tion.

Clause 3.—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot out of the persons so nominated by the parties or any of them a person to act as arbitrator on behalf of the claimants.

If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

Appointment
of third arbi-
trator.

Clause 4.—When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and, in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator.

If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two arbitrators may make an award.

Appointment
in place of
arbitrator not
acting.

Clause 5.—If any person on being appointed an arbitrator shall refuse to act, or after accepting the appointment shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

Collector em-
powered to
enforce
attendance of
arbitrators.

Clause 6.—After the arbitrators have accepted the appointment, the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him when acting judicially for the purposes of compelling them to attend and give evidence.

In default of
award within
specified
period, fresh
arbitrators
may be
chosen.

Clause 7.—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators, to be chosen in the same manner and subject to the same rules as the first.

Collector to
furnish in-
formation to
arbitrators,
and to enforce
attendance
and examina-
tion of wit-
nesses, etc.

Clause 8.—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them, any information which his records or those of any public department may afford connected with the subject of inquiry.

He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps and plans as they shall require.

(Sec. 7.)

He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before them.

Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially. Penalty on witness not appearing.

Any person giving intentionally and deliberately a false deposition under an affirmation, in any case referred to arbitration as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law. Penalty for false deposition.

Clause 9.—On the close of the inquiry the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto. Award of arbitrators.

The proceedings of the arbitration shall be deposited in the Collector's office; and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector, which copy shall be *prima facie* evidence thereof.

Clause 10.—If the right to the compensation awarded shall in any case be doubtful, or if there exist any ground which, in the judgment of the arbitrators or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof. When payment of compensation may be deferred.

Clause 11.—No award passed under this section shall be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators, and no suit to set aside such an award shall be entertained, unless it be instituted within three months from the date of the award. Reversal or alteration of award.

In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

Clause 12.—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs.

(Sec. 8.)

Proviso.

But nothing herein contained shall affect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto.

Estimated value of benefit to be set off against compensation awarded.

Clause 13.—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in *Clause 1* of this section, the Court or arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived or will derive benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party.

Exception of cases of compensation in respect to huts, trees, or crops.

Clause 14.—The provisions of this section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees or crops which it may be necessary to remove or destroy, in enlarging or changing the line of a public embankment.

In all such cases the officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees and crops, in the manner prescribed in section 12 of this Act.

Application by landholder to have a sluice made in public embankment.

8. Clause 1.—If any landholder, farmer or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate.^[1]

The application shall contain such particulars of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare, as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part, not exceeding half of the cost thereof, as may be determined by Government; and, as regards any other public embankment whether the applicant is willing to defray the whole or such part of the cost incident to, and attendant on, the proposed work, as may be determined as aforesaid.

Officer in immediate charge to report on proposed work.

Clause 2.—The Collector shall transmit such application to the officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and, if he be of opinion that compliance with the application is unobjectionable, shall annex to his report a plan of the proposed work and an estimate of the expense of its construction.

[1] As to apportionment of cost of sluice where lands of several owners are benefited, see the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866), s. 6, in Vol. II of this Code.

(Secs. 9-11.)

The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

Clause 3.—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense or such portion thereof as may be determined under the provisions of *Clause 1* of this section, as the case may be, and, upon such agreement being executed, shall issue a certificate to the officer in charge of the public embankments of the district to construct the sluice.

Upon applicant engaging to defray cost Collector may issue certificate.

9. Sluices constructed in any public embankment shall be opened only by, or with the permission of, the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the officer in charge of the public embankments of the district or from the Superintendent of Embankments.

Opening of sluices.

10. Whenever any person is desirous that a temporary watercourse should be made through, or that a temporary roadway should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest officer of the Embankment Department, who shall communicate the application to the officer in charge of the public embankments of the district, and that officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments.

Officer in immediate charge may authorize temporary watercourse, etc., to be made.

If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of, and incident to, making such roadway, or of making and closing or removing such watercourse or dam.

In any case of emergency the officer in immediate charge of an embankment, subject to such general instructions as he may receive from the officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary watercourse to be made through such embankment.

11. *Clause 1.*—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of *zamindars* or others shall be prepared as soon after the rains in each year as may be practicable.

Annual specifications and estimates for maintaining or improving embankment kept up at expense of zamindars.

Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments.

(Sec. 11.)

Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office; and, should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper:

Provided, however, that, if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent may appeal to the Commissioner, who, subject to the orders of the Board of Revenue^[1] and of Government, may disallow the construction of the work.

Clause 2.—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of *zamindars* or others, and in constructing and repairing sluices and making temporary watercourses or roadways through or over any public embankment, or executing any other work the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested.

Notice of the receipt of the accounts shall be posted up in the Collector's office; and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall inquire into such objection, and, if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent concur with the Collector, he shall pass orders accordingly; if he differ, the case shall be reported to the Commissioner, whose decision shall be final.

When the objection shall have been finally disposed of, or, if no objection be preferred when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process^[2] which is or may be in force for the recovery of arrears of Government revenue.

[¹] As to the exercise of functions of the Board of Revenue by other authorities. see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

[²] See now the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), ss. 4 and 15, printed in Vol. III of this Code.

Accounts to be forwarded to Collector, who may recover as arrears of Government revenue.

(Secs 12-13)

12. Clause 1 —Whenever the Superintendent of Embankments shall be of opinion that the removal of any houses, huts or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts or other buildings stand, is situated Superintendent to report to Collector as to removal of buildings, etc

Clause 2 —When such report is received the Collector shall cause a notice, containing a general description of the houses, huts or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest bazar, calling on all persons claiming a right in such houses, huts or other buildings to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a jury to be appointed in the following manner:— Collector to give notice to claimants.

Clause 3 —The Collector shall direct a Deputy Collector or a principal officer of his establishment to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a jury for determining the value of the houses, huts or buildings, and, if any dispute should arise, the rights of the claimants Selection of jury

Clause 4 —The jury shall assess the value of each house, hut or building separately. Proceedings of jury.

If in any case they differ, the value shall be assessed according to the opinion of the majority, and, if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

Clause 5.—Having completed their proceedings, the jury shall make their award, which shall contain a schedule of the houses, huts and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same Award of jury

The award shall be final and conclusive and not open to question in the Civil Court:

Provided always that any person who was not present at the inquiry, or whose claim may have been set aside by the jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

13. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or After award, Collector to give

(Sec. 11.)

Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office; and, should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper:

Provided, however, that, if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent may appeal to the Commissioner, who, subject to the orders of the Board of Revenue^[1] and of Government, may disallow the construction of the work.

Accounts to be forwarded to Collector, who may recover as arrears of Government revenue.

Clause 2.—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of *zamindars* or others, and in constructing and repairing sluices and making temporary watercourses or roadways through or over any public embankment, or executing any other work the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested.

Notice of the receipt of the accounts shall be posted up in the Collector's office; and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall inquire into such objection, and, if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent concur with the Collector, he shall pass orders accordingly; if he differ, the case shall be reported to the Commissioner, whose decision shall be final.

When the objection shall have been finally disposed of, or, if no objection be preferred when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process^[2] which is or may be in force for the recovery of arrears of Government revenue.

[¹] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 1913), s. 3, in Vol. III of this Code.

[²] See now the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), ss. 4 and 15, printed in Vol. III of this Code.

(Secs 12-13)

12. *Clause 1*—Whenever the Superintendent of Embankments shall be of opinion that the removal of any houses, huts or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts or other buildings stand, is situated

Superintendent to report to Collector as to removal of buildings, etc

Clause 2.—When such report is received the Collector shall cause a notice, containing a general description of the houses, huts or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest bazar, calling on all persons claiming a right in such houses, huts or other buildings to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a jury to be appointed in the following manner —

Collector to give notice to claimants.

Clause 3—The Collector shall direct a Deputy Collector or a principal officer of his establishment to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a jury for determining the value of the houses, huts or buildings, and, if any dispute should arise, the rights of the claimants

Selection of jury

Clause 4—The jury shall assess the value of each house, hut or building separately.

Proceedings of jury.

If in any case they differ, the value shall be assessed according to the opinion of the majority; and, if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote

Clause 5—Having completed their proceedings, the jury shall make their award, which shall contain a schedule of the houses, huts and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same

Award of jury

The award shall be final and conclusive and not open to question in the Civil Court:

Provided always that any person who was not present at the inquiry, or whose claim may have been set aside by the jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

13. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or

After award, Collector to give

(Secs. 14-17.)

notice of
payment,
and to
remove
buildings,
etc., in
thirty
days.

other officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts or other buildings within thirty days from the date of such notice.

When
Collector
may remove
buildings,
etc., at cost
of owners.

14. If, on the expiration of the above-stated period, the houses, huts or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled; and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

Penalty for
obstructing
officer in
discharge of
duty.

15. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut or other building shall be liable to be imprisoned for any time not exceeding six months, with or without labour, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

Penalty
for wilful
damage to
embankment
by cutting,
etc.

16. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys or attempts to destroy any such embankment, or open any sluice or watercourse in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labour, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years, with or without labour, or to fine, or to both.

Penalty
for other
wilful
damage.

17. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river without the permission of the officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or tethering any cattle or other animals on any such embankment, or by driving stakes into or cutting or rooting out grass growing on, such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment, shall be liable, on conviction before a Magistrate, to simple imprisonment

(Secs 18-21.)

ment for a term not exceeding six months, or to a fine not exceeding two hundred rupees, or to both.

18. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by the Regulations of the Bengal Code, and by the Acts of the Governor-General of India in Council * * *.^[1]

19. (*Provision of s. 13 of Bengal Regulation 20 of 1817 extended to this Act.*) *Rep. by the Repealing Act, 1874 (16 of 1874).*

20. All sentences and orders passed by a Magistrate, Deputy Magistrate or Assistant under this Act shall be appealable, subject to the general provisions which regulate appeals.

21. In the construction of this Act, * * * ^[2] the word "Collector" shall mean any Collector, Deputy Collector or other revenue-officer in independent charge of any district or portion of a district.

[1] The words "with respect to the punishment of misdemeanours," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[2] The provision as to number and gender, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted. See now the General Clauses Act, 1897 (10 of 1897), s. 13, in General Acts, 1887-97, Ed. 1909, p. 580.

ACT 37 OF 1855.

(THE SONTHAL PARGANAS ACT, 1855.)^[1]

(22nd December, 1855)

An Act^[2] to remove from the operation of the general Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.

^[2]Whereas the general Regulations and Acts of Government now in force in the Presidency of Bengal are not adapted to the uncivilized race of people called Sonthals, and it is therefore expedient to remove from the operation of such laws the district called the Dámin-i-Koh, and other districts which are inhabited principally by that tribe, It is enacted as follows:—

1. Clause 1.—^[3] The districts described in the Schedule to this Act are hereby removed from the operation of the general Regulations of the Bengal Code and of the laws passed by the Governor General of India in Council, except so far as is hereinafter provided; and no law which shall hereafter be passed by the Governor General of India in Council shall be deemed to extend to any part of the said districts, unless the same shall be specially named therein

Districts removed from operation of General Regulations.

Provided that nothing herein contained shall * * *^[3] remove any part of the said districts from the operation of Regulation 10 of 1804^[4] of the Bengal Code, nor shall this Act affect any revenue-settlement, nor any law relating to the recovery of permanently-settled land-revenue due under the same, nor any law relating to the sale of lands

Proviso.

^[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), *ante*, p. 692.

LOCAL EXTENT.—This Act extends only to the Sonthal Parganas, as described in the Schedule, *post*, p. 375—see s. 1, clause 1. It is formally included in the Schedule of laws in force in these Parganas—see *post*, p. 801.

PROSPECTIVE REPEAL.—The Act will be repealed by the Scheduled Districts Act, 1874 (14 of 1874), (printed in the General Acts, 1868-73, Ed. 1909, p. 440), whenever this Act is brought into force in the Sonthal Parganas.

For an order issued under Act 37 of 1855, as to the powers of Sub-Deputy Collectors, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part V.

^[2] The portions of the title, preamble and s. 1 which are printed in italics appear to be superseded by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, printed *post*, p. 765.

^[3] The words "extend to or affect any case now pending in any Court, nor," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

^[4] The Bengal State Offences Regulation, 1804, *ante*, p. 97.

(Secs. 2-4.)

for arrears of revenue, or relating to patni taluks or to the sale thereof for arrears of rent, nor any law relating to mutations or batwara or to any other matter to which the Lieutenant-Governor of Bengal shall at any time notify in the Calcutta Gazette that the general Laws and Regulations shall extend.

Superintendence of districts.

Clause 2.—The said districts shall be placed under the superintendence and jurisdiction of an officer or officers^[1] to be appointed in that behalf by the Lieutenant-Governor of Bengal, and such officer or officers shall be subject to the directions^[2] and control of the said Lieutenant-Governor.

Administration of justice and collection of revenue.

2. The administration of civil and criminal justice and the collection of the revenue, not being permanently-settled land-revenue within the said districts, are hereby vested in the officer or officers to be so appointed:

Suits exceeding value of one thousand rupees.

Provided that all civil suits in which the matter in dispute shall exceed the value of one thousand rupees shall be tried and determined according to the general laws and Regulations in the same manner as if this Act had not been passed:^[3]

Collection of permanently-settled land-revenue.

Provided also that all permanently-settled land-revenue shall be collected and paid at the same places and in the same manner as if this Act had not been passed.

Administration of civil and criminal justice.

3. In the administration of civil and criminal justice the officer or officers appointed under this Act^[4] * * * * * may hold his or their Courts either within the said district or at any place or places that may be appointed for that purpose by the said Lieutenant-Governor; and any person liable to be imprisoned in any civil or criminal jails may be imprisoned in any civil or criminal jail, as the case may be, which the said Lieutenant-Governor may order, whether the same be in or out of the said district.

4. *[Decisions final; confirmation of death-sentence; appeal; procedure on references to Sadar Court.] Rep. by the Sonthal Parganas Justice Regulation, 1893 (5 of 1893).*

[1] For provisions as to Courts of Officers appointed under this section, see the Sonthal Parganas Justice Regulation, 1893 (5 of 1893) Ch. III, Part II, *post*, p. 827.

[2] Any directions issued under clause 2 of s. 1 must be consistent with enactments in force in the Sonthal Parganas—see the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 27, *post*, p. 831.

[3] In reference to this proviso, see the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), *post*, p. 747, and the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 15, *post*, p. 827.

[4] The words “shall be guided by the spirit and principle of the Civil and Criminal Laws administered in the Courts of the East India Company in the Presidency of Bengal, but shall not be bound to take the *fatwa* of a Law-officer; and he or they,” which were repealed by the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), are omitted.

(Secs. 5-6.)

5. [Saving of laws relating to European British subjects.] Rep. by the Sonthal Parganas Justice Regulation, 1893 (5 of 1893).

6. [Commencement of Act.] Rep. by the Repealing Act, 1870 (14 of 1870).

[¹]SCHEDULE.

The Dámin-i-Koh.

So much of Pargana Bhágampur and of Pargana Satiyári as lies east of the Geruá Nádí and south of a line drawn eastward from Hamzá Chak to the village of Dighi.

ZILA BHAGALPUR.	{	Pargana Tiliyagárhí.	{	Except such parts of them as are now or may hereafter be situate on the left bank of the main stream of the Ganges, so that in any change in the course of the river the main stream shall be the boundary.
		„ Jamuni.		
		„ Chituliya.		
		„ Kánkjaul.		
		„ Bahádarpur.		
		„ Akbarnagar.		
		„ Ináyatnagar.		
		„ Makráin.		
		„ Sultanganj.		
		„ Ambar.		
		„ Sultánábád.		
ZILA BIRBHUM.	{	„ Goddá.	{	Except such detached villages as lie within the general boundaries of parganas not mentioned in this schedule.
		„ Amolmotiyá.		
		„ Pasai.		
		„ Hándwá.		
		Tappa Manihári.		
		„ Belpattá.		
		Pargana Pabbiya.		
ZILA BIRBHUM.	{	Tappa Sarath Deogarh.	{	
		„ Kandit Karaiyá.		
		„ Muhammadábád.		
		Such part of Pargana Darin Mauleshwar as lies north of the Chilla or Chandan Ghát Nala.		

[¹] This Schedule was virtually substituted for the original schedule by the Sonthal Parganas Act, 1857 (10 of 1857), printed, *post*, p. 377.

(Sec. 6.)

Such detached portions of other parganas and tappas as lie within the general boundaries of any of the above-mentioned parganas and tappas.

Such portions of parganas belonging to Malda and Purnea below the village of Khidirpur in Pargana Tiliyágarhi, as are now or may hereafter be situate on the right bank of the main stream of the Ganges.

ACT 10 OF 1857

(THE SONTHAL PARGANAS ACT, 1857)[']

(20th May, 1857)

An Act to amend Act 37 of 1855.

Whereas by Act 37 of 1855 certain districts described in the schedule Preamble to the said Act were removed from the operation of the general Regulations and Acts, and whereas it is expedient to make certain alterations in respect to the districts so removed, It is enacted as follows

* * * [2] all the provisions of the said Act, which are applicable to the districts described in the said schedule, shall, after the passing of this Act, be applicable only to the districts described in the schedule to this Act, in the same manner as if the schedule to this Act had been the schedule to Act 37 of 1855

Districts removed from operation of General Regulations and Acts.

SCHEDULE

[Printed ante, p 375]

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed ante, p 693

LOCAL EXTENT.—This Act extends to the Sonthal Parganas, as described in the Schedule printed ante, p 375

PROSPECTIVE REPEAL.—This Act will be repealed by the Scheduled Districts Act, 1874 (14 of 1874), (printed in the General Acts, 1868-78, Ed 1909, p 440), whenever that Act is brought into force in the Sonthal Parganas.

[2] Portion repealed by the Repealing Act, 1870 (14 of 1870), is omitted

ACT 13 OF 1857.

(THE OPIUM ACT, 1857.)^[1]

(6th June, 1857.)

An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.^[2]

Whereas the existing law relating to the cultivation of the poppy and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed;

And whereas it is also expedient * * *^[3] that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended;

[¹] **SHORT TITLE**—This short title was given by the Amending Act, 1903 (1 of 1903), Sec 1—see *post*, p 693

LOCAL EXTENT—This Act was passed for the whole of the former Province of Bengal—see the title

It has been declared, by the Laws Local Extent, Act, 1874 (15 of 1874), s 6 (in General Acts, 1868 78, Ed 1909, p 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan and the Porhat Estate in the district of Singhbhum, in the Chota Nagpur Division, see Vol IV, Part III It is in force in the Santhal Parganas—see Vol IV, Part IV

The application of the Act is barred in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p 864

The Act ceases to be in force in districts in respect of which an order is published under s 31—see that section, *post*, p 388

(10) see the Opium Act, 1878

(in General Acts, 1868 78,

the Indian Tariff Act, 1894 (8 of 1894), ss 2 (4), 3, 5, 7 and Sch III (in General Acts, 1887 97, Ed 1909, pp 384, 385, 391).

As to securing the attendance of officers of the Opium Department before Criminal Courts, see the Bengal Police Regulation, 1817 (20 of 1817), s 29 (1) to (4), *ante*, pp 168—170

As to the suppression, by the police, of the illicit cultivation, manufacture, sale, purchase, importation, transport and possession of opium, see *ib*, s 23 (9), (12), *ante*, p 170.

[²] This includes the present Province of Bihar and Orissa except the district of Sambalpur

[³] The words "that certain obsolete Regulations relating to the provision of opium should be formally repealed, and," which were repealed by the Repealing and Amending Act, 1871 (12 of 1871), are omitted

(Secs. 1-6.)

It is enacted as follows:—

1. (*Laws repealed.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. (*Prohibition of poppy cultivation and opium manufacture.*) *Rep. by the Opium Act, 1878 (1 of 1878).*

Officers entrusted with superintendence of provision of opium.

3. The superintendence of the provision of opium for Government shall be entrusted to Agents or other officers, being covenanted servants of the Company duly appointed by Government in that behalf, who shall perform the duties connected therewith under the control and direction of the Board of Revenue ^[1][of the United Provinces of Agra and Oudh.]

Assistants to Agent.

The Agents or other officers as aforesaid shall be assisted by Deputy Agents and Sub-deputy Agents, or such other officers, covenanted or uncovenanted, as the Government may from time to time appoint for the purpose.

Collector *ex-officio* Deputy Agent.

The Collector of the district shall ordinarily, and unless Government shall otherwise direct, be *ex-officio* Deputy Agent; and the relative duties and powers of the Deputy Agents and Sub-deputy Agents shall be from time to time regulated by the said Board with the sanction of Government.

Officers amenable to Civil Courts.

4. The Opium Agents, and their subordinate officers of every description, are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as otherwise herein provided.

Bar of suit without previous application to Agent for redress.

But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself.

In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the Civil Court.

Sanction to suit by Agent.

5. The Opium Agents shall not in their official capacity institute any suit in a Civil Court without the previous sanction of the Board of Revenue.

Board may in certain cases appoint officer to conduct or defend suits.

6. In cases in which the Board of Revenue may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or intrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they or an Agent, or any other officer subordinate

[1] The words "of the United Provinces of Agra and Oudh," in s. 3, were substituted for the words "in Calcutta" by the Opium (Amendment) Act, 1911 (1 of 1911), s. 2, *post*, p. 718.

(Secs. 7-10.)

to them, may be engaged, instead of leaving such superintendence to the Agent or any other officer.

7. The Board of Revenue, with the sanction of Government, shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of Government.

Board to fix limits of cultivation and price to be paid to cultivators.

With the like sanction they shall from time to time fix the price to be paid to the cultivators for the opium produced.

The price shall be fixed at a certain sum per seer of eighty *tolas* for opium of a certain standard consistence, and shall be subject to a rate able reduction according to a scale sanctioned by the Board of Revenue, for opium of a consistence below the standard.

8. The Sub-deputy Agents or other officers entrusted with the superintendence of the cultivation shall, at the proper period of the year, issue licenses to the cultivators who may choose to engage to cultivate the poppy and to deliver the produce to the officers of Government at the established rates.

Issues of licenses.

Every license shall specify the number of *bighas* which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of the Board of Revenue, may direct.

What to be specified in license.

A counterpart-engagement, in conformity with the tenor of the license, shall be taken from the cultivator.

9. It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not as he may think fit; and any Sub-deputy Agent or other officer as aforesaid, or any inferior officer employed in the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation.

Cultivator to have option to engage to cultivate or not. Officers compelling cultivator to engage liable to be dismissed. Sub-deputy Agent may withhold license to cultivate.

It shall be at the option of the Sub-deputy Agent or other officer as aforesaid to withhold a license from any cultivator whenever he may think proper so to do.

Appeal.

Any person to whom a license has been refused may appeal to the Agent and the decision of the Agent shall be final.

10. If it shall be found that any cultivator who has received advances from Government has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the Sub-deputy Agent or other officer as aforesaid.

Penalty on cultivator receiving advances and not cultivating full quantity of land. Adjudication of penalty.

(Secs. 11-14.)

appeal.

Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final.

Delivery of
opium
produced.

11. All opium the produce of land cultivated with poppy on account of Government shall be delivered by the cultivators to the Sub-deputy Agents or other district-officers, or shall be brought by them to the *sadar* factory, as the Agent may direct.

Opium not
liable to
distress or
attachment.
Value thereof
may be
attached.

And no such opium shall be liable to be distrained or attached by a *zamindar* or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such opium may be attached by order of Court in the hands of the Agent or of the district-officer under the rules in force for such attachments.

Opium to be
weighed and
classified by
Sub-deputy
Agent.

12. All opium delivered by the cultivators to the Sub-deputy Agent or other district-officer shall, before it is forwarded to the *sadar* factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue.

Proceeding
where
cultivator is
dissatisfied
with
classification.

Any cultivator who may be dissatisfied with the classification of the district-officer shall be at liberty either to take his opium to the *sadar* factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen.

Weighing and
examination
at *sadar*
factory.

13. All opium forwarded by the district-officers to the *sadar* factory, and all opium delivered at the *sadar* factory, by the cultivators, shall be there weighed and examined by the Opium Examiner or other officer duly authorized in that behalf, agreeably to rules sanctioned by the Board of Revenue; and the quality and consistence of the opium, and deductions from or additions (if any) to the standard price to be made in accordance with the said rules, shall be determined by the result of such examination.

The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Confiscation
of adulterated
opium.

14. When opium delivered by a cultivator, either to a district-officer, or at the *sadar* factory, is suspected of being adulterated with any foreign substance it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator.

(Secs. 15-18.)

If upon such examination the opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated, and the order of the Agent shall be final and not open to question in any Court.

15. The weights and scales made use of in the *sadar* factories and at the district *lothis* shall be provided by the Board of Revenue. Adjudication of confiscation.
Weights and scales;

Every district-officer shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district and shall report the result of such examination to the Agent. examination thereof.

The Agent shall make a similar examination of the weights and scales of the *sadar* factory, and shall report the result to the Board.

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate.

It shall be the duty of all officers who may superintend the weighing of opium to see that the opium is weighed fairly with an even beam; and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

16. The accounts of the cultivators shall be adjusted annually by the district-officers as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator, or from any *matho* or intermediate manager, may be recovered by the district-officer by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held *khas* may be distrained and sold by the Collector for the recovery of an arrear of rent or revenue: Adjustment of cultivators accounts and recovery of balance by distress.

Provided that no warrant of distress and sale shall be issued by any district-officer without the sanction of the Agent previously obtained. Sanction to issue of warrant.

17. Any officer of the Opium Department who shall receive any fee, gratuity, perquisite or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred rupees. Penalty on officer taking bribes.

18. If any *zamindar* or other proprietor of land, or any farmer of land shall exact from any *rayat* on account of his poppy land any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the *rayat*, or the Sub-deputy Agent or other district-officer on his behalf, may institute a suit before the Collector, and recover from Exactions by landholder from rayat recoverable, together with penalty, in summary

(Secs. 19-22.)

suit before
Collector.

such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

Penalty for
embezzlement
of opium by
cultivator.

19. Any cultivator entering into engagements for the cultivation of the poppy on account of Government who may embezzle, or otherwise illegally dispose of, any part of the opium produced shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation.

Penalty for
illegal
purchase of
opium from
cultivator;

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium,

and for illegal
connivance at
embezzlement
by Opium
officer.

and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium,

shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for or illegally disposed of shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per seer for all such opium in excess of that weight;

and the opium, if found, shall be liable to confiscation.

Penalty for
unlicensed
cultivation.

21. Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty *bighas*, in which case the fine may be at the rate of twenty-five rupees per *bigha*; and the poppy plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per *bigha* of land illegally cultivated.

Duty of
landholders
and others
to give
information

22. All proprietors, farmers, *tahsildars*, *gumāshtas* and other managers of land shall give immediate information to the police or *abkārī darogas*, or opium *gumāshtas*, or to the Magistrates, Collectors or officers in charge of the *abkārī mahāl*, or to the Agents, their deputies

(Secs. 23-26.)

or sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, *tahsildar*, *gumáshta* or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section. of illegal cultivation.

23. All police and *abkári darogas*, and opium *gumáshtas*, and all Native officers of Government of whatever description, and all *chaukidars*, *paiks* and other village police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the Sub-deputy Agent or other officer superintending the cultivation of the poppy if in a district where the poppy is cultivated on account of Government, or to the Collector or officer in charge of the *abkári mahál* if in a district where the poppy is not so cultivated. Duty of police and other officers to give information of illegal cultivation.

Every police or *abkári daroga*, opium *gumáshta*, Native officer, *chaukidar* or other police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

24. Whenever a police or *abkári daroga* or opium *gumáshta* shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy, he shall immediately proceed to the spot, and, if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subordinate. Police or abkári daroga how to proceed in case of illegal cultivation.

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and, in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

25. Proprietors, farmers, *tahsildars*, *gumáshtas* and other managers of land shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest police or *abkári daroga* or opium *gumáshta*, who shall thereupon proceed in conformity with the rules contained in the last preceding section. Landholders, etc., may attach in case of illegal cultivation.

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts Adjudication of penalties.

(Secs. 19-22.)

suit before
Collector.

such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

Penalty for
embezzlement
of opium by
cultivator.

19. Any cultivator entering into engagements for the cultivation of the poppy on account of Government who may embezzle, or otherwise illegally dispose of, any part of the opium produced shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation.

Penalty for
illegal
purchase of
opium from
cultivator ;

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium,

and for illegal
connivance at
embezzlement
by Opium
officer.

and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium,

shall be liable to a fine not exceeding one thousand rupēes, unless the opium purchased, bargained for or illegally disposed of shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per seer for all such opium in excess of that weight;

and the opium, if found, shall be liable to confiscation..

Penalty for
unlicensed
cultivation.

21. Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty *bighas*, in which case the fine may be at the rate of twenty-five rupees per *bigha*; and the poppy plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per *bigha* of land illegally cultivated.

Duty of
landholders
and others
to give
information

22. All proprietors, farmers, *īahsildars*, *gumāshtas* and other managers of land shall give immediate information to the police or *abkārī darogas*, or opium *gumāshtas*, or to the Magistrates, Collectors or officers in charge of the *abkārī mahāl*, or to the Agents, their deputies

(Secs. 23-26.)

or sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, *tahsildar*, *gumáshta* or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

23. All police and *abkári darogas*, and opium *gumáshtas*, and all Native officers of Government of whatever description, and all *chaukidars*, *paihs* and other village police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the Sub-deputy Agent or other officer superintending the cultivation of the poppy if in a district where the poppy is cultivated on account of Government, or to the Collector or officer in charge of the *abkári mahál* if in a district where the poppy is not so cultivated.

Every police or *abkári daroga*, opium *gumáshta*, Native officer, *chaukidar* or other police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

24. Whenever a police or *abkári daroga* or opium *gumáshta* shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy, he shall immediately proceed to the spot, and, if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subordinate.

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and, in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

25. Proprietors, farmers, *tahsildars*, *gumáshtas* and other managers of land shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest police or *abkári daroga* or opium *gumáshta*, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts

(Secs. 19-22.)

suit before
Collector.

such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

Penalty for
embezzlement
of opium by
cultivator.

19. Any cultivator entering into engagements for the cultivation of the poppy on account of Government who may embezzle, or otherwise illegally dispose of, any part of the opium produced shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation.

Penalty for
illegal
purchase of
opium from
cultivator ;

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium,

and for illegal
connivance at
embezzlement
by Opium
officer.

and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium,

shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for or illegally disposed of shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per seer for all such opium in excess of that weight;

and the opium, if found, shall be liable to confiscation.

Penalty for
unlicensed
cultivation.

21. Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty *bighas*, in which case the fine may be at the rate of twenty-five rupees per *bigha*; and the poppy plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

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Duty of
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(Secs. 23-26.)

or sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, *tahsildar*, *gumáshta* or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

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Every police or *abkári daroga*, opium *gumáshta*, Native officer, *chaukidar* or other police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

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He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and, in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

25. Proprietors, farmers, *tahsildars*, *gumáshtas* and other managers of land shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest police or *abkári daroga* or opium *gumáshta*, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts

suit before
Collector.

such proprietor or farmer the sum exacted, together with a penalty of not less than one hundred rupees; and such suit shall be tried by the Collector; and suits instituted before a Collector shall be tried by him.

Penalty for
embezzlement
of opium by
cultivator.

19. Any cultivator entering into a contract with the poppy on account of the opium, and who illegally dispose of, or who is proved to have disposed of, the opium, shall be liable to a penalty not exceeding one hundred rupees, and the Magistrate may, if he is sooner proved to have disposed of the opium, award a fine not exceeding one hundred rupees.

Penalty for
illegal
purchase of
opium from
cultivator.

20. Any person who purchases opium from a cultivator, or who is proved to have purchased opium from a cultivator, after having been previously convicted of a like offence, shall be liable, in addition to the penalty attached to the offence, to imprisonment for a period not exceeding six months, or to a fine not exceeding six months, or to both, at the discretion of the Magistrate. If the person is again convicted of a like offence, the punishment shall be imprisonment for a period not exceeding six months, or to a fine not exceeding six months, or to both, at the discretion of the Magistrate.

Place of
imprisonment
under section
23.

29. Every person who shall be imprisoned under the last section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village police-officer convicted of an offence under section 17, 20 or 23, shall be imprisoned in the civil jail.

Disposal of
fines and
forfeitures.

30. One-half of all fines and penalties levied from persons convicted of offences under sections 19, 20 and 21 of this Act, together with a reward of one rupee eight annas for each seer of opium confiscated and declared by the Civil Surgeon to be fit for use, shall upon adjudication of the case, be awarded to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each seer of opium confiscated as aforesaid, shall be given to the informer.

If in any case the fine or penalty is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to them fit.

Governor
General may
allow free
cultivation of
poppy and
manufacture
of opium in
any district.

31. The Governor General of India in Council may authorize, by an order of Government, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a Sub-deputy Opium Agent or other officer of Government; and, when such order has been published, all the provisions of this Act shall cease to have effect in such district or districts:

ACT 31 OF 1858.

[THE BENGAL ALLUVIAL LAND SETTLEMENT ACT, 1858.][¹]

(24th August, 1858.)

An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.[²]

Whereas for the removal of doubts respecting the course proper to be followed in the settlement of land added by alluvial accession to estates paying revenue to Government, it is expedient to lay down certain rules to be observed in the settlement of such land; It is enacted as follows:—

1. When land added by alluvial accession to an estate paying revenue to Government becomes liable to assessment, if it be so agreed on between the Revenue-authorities and the proprietor or proprietors, the revenue assessed upon the alluvial land may be added to the *jama* of the original estate; and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent-roll for the former *jama* of the original estate.

If the proprietor or proprietors object to such an arrangement, or if the Revenue-authorities are of opinion that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate, the alluvial land shall be assessed and settled as a separate estate with a separate *jama*, and shall thenceforward be regarded and treated, as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors or the land be let in farm in

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sec 1—see *post*, p. 693.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—see the title.

in 1871, the Scheduled Districts Act, 1874 (15 of 1874), s. 6 (printed in force throughout the former Province of Bengal, Ranchi, Palamau and Manbhum, the district of Singhbhum in the Chota

Vol IV, Part IV, but its application to the Laws Regulation, 1913 (3 of 1913), s. 3 (2), printed *post*, p. 864

[²] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

ACT 5 OF 1859.

[THE BENGAL GHATWALI LANDS ACT, 1859]^[1]

(4th March, 1859)

An Act to empower the holders of *ghatwali* lands in the district of Birbhoom to grant leases extending beyond the period of their own possession.

Whereas it has been held that the *ghatwals* of the district of Birbhoom who pay the revenue of their lands directly to Government under the provisions of Regulation 29, 1814^[2] of the Bengal Code have not the power of alienating their lands, Preamble

And whereas, for the development of the mineral resources of the country in which the said *ghatwali* lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession should in certain cases be extended to the possessors of such lands,

It is enacted as follows —

1. *Ghatwals* holding lands in the district of Birbhoom under the provisions of the aforesaid Regulation shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures as is allowed by law to the proprietors of other lands Right of *ghatwals* of Birbhoom to grant leases.

Provided that no lease of *ghatwali* lands for any period extending beyond the lifetime or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines or for the clearing of jungle, or for the erection of dwelling houses or manufactories, or for tanks, canals and similar works, and shall be approved by the Commissioner of the Division such approval being certified by an endorsement on the lease under the signature of the Commissioner Proviso

2 If any of the said *ghatwali* lands be at any time under the superintendence of the Court of Wards, or otherwise subject to the Court of Wards and Revenue authorities have like power in certain cases.

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see post, p 63

LOCAL EXTENT.—This Act was passed only for the district of Birbhoom—see the title and s 1

It has since been declared to be in force in the Sonthal Parganas—see Vol. IV, Part IV

[2] The Bengal Ghatwali Lands Regulation, 1814 It is printed ante, p 143.

SECTION.

46. Expenses of measurement, survey or local inquiry.
47. Civil Court not competent to order entry in special register.
48. Suit for cancelment of registry of tenure or farm.
49. Proceedings of Revenue- authorities in registration of tenures, etc.
50. Effect of entry in special register.
51. Protection of *talukdari* tenures pending inquiry, in case of sale of parent estate for arrears of revenue.
52. Rights of purchaser of estate not permanently settled, sold for its own arrears.
53. Rights of purchaser being sharer in estate;
and of purchaser of estate not sold for its own arrears.
54. Rights of purchasers of shares of estate.
55. Recovery of arrears due to defaulters.
56. Punishment for contempt.
57. Default as to deposit, a contempt.
58. Government may purchase at sale.
59. (*Repealed.*)
60. Regulations 7, 1822, and 9, 1825, in force in certain estates.
61. Interpretation.
62. Application of Act.

SCHEDULE A.—Certificate of sale.

SCHEDULE B.—(*Repealed.*)

ACT 11 of 1859.

[THE BENGAL LAND-REVENUE SALES ACT, 1859]^[1]

(4th May, 1859.)

An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.^[2]

Whereas it is expedient to discontinue the practice of obtaining the Preamble previous sanction of the Board of Revenue to sales of estates for arrears of revenue, or other demands of Government, in the Province of Cuttack,

[¹] **SHORT TITLE**—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see *post*, p 693

LOCAL EXTENT—This Act was passed for the whole of the former Province of Bengal—see the title and the concluding paragraph of the preamble *post*, p 398, but was declared by s 62 (*post*, p 418) to extend only to such parts of that Province as are subject to the general Regulations

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874) s 6 (in General Acts, 1863 78, Ed 1909, p 458), to be in force throughout the former Province of Bengal, except as regards the Scheduled Districts

It has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 5, to the districts of Hazaribagh, Ranchi, Palamau and Manbhum, and Pargana Dhalbhum and the Kolhan, in the district of Singhbhum, in the Chota Nagpur Division—see Vol IV, Part III

The Act is in force in the Sonthal Parganas—see Vol IV, Part IV but its application is barred in the district of Angul, by the Angul Laws Regulation, 1913 (3 of 1913), s 3 (2), *post*, p 864

ANNOTATED REPRINT—This Act is reprinted, with notes of cases decided by the High Court and of important rulings of the Bengal Board of Revenue, in the Bengal Sale Law Manual, 1902, pp 11 to 57

AMENDING ACTS—The Bengal Land revenue Sales (Amendment) Act, 1862 (Ben Act 3 of 1862), and the Bengal Land revenue Sales Act 1868 (Ben Act 7 of 1868), are to be read and taken as part of this Act—see s 4 of the former Act and s 30 of the latter Act, in Vol II of this Code

FURTHER ENACTMENTS—Sales for arrears of revenue are not liable to annulment by the Civil Courts on the ground—

(a) that one or more of the sharers may not have obtained possession of his or their interests in the property, or

(b) that the proceeds of the sales have materially exceeded the amount of the arrears

The Board of Revenue has full discretion in ordering sales in such cases, subject to the control of the Government—see the Bengal Land revenue Sales Regulation, 1812 (5 of 1812), ss 24, 25 *ante*, p 134

As to the sale of *ghatwals* tenures, see the Bengal Ghatwali Lands Regulation, 1814 (29 of 1814), s 5, *ante*, p 144

For saving of liability of tenures to cancellation on sale of estate for arrears of land-revenue, see the Bengal Patni Taluks Regulation, 1819 (8 of 1819), s 2, proviso, *ante*, p 208

The Bengal Tenancy Act, 1885, does not affect any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue—see s 195 (c) of that Act, *post*, p 362

As to the recovery, beyond the district in which they accrued, of arrears of land revenue and of sums recoverable as arrears of land revenue see the Revenue Recovery Act, 1890 (1 of 1890), in General Acts, 1837 97, Ed 1909, p 177.

(Secs. 1-2.)

and whereas it is just that a person having a lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured;

and whereas it is expedient to afford shares in estates, who duly pay their shares of the *saddar jama* of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers;

and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents;

and whereas it is expedient to provide for the voluntary registration of dependent *taluks* existing at the time of settlement;

and whereas it is expedient to protect the holders of registered under-tenures created since the settlement, and not resumable by the grantors or their representatives, from loss by the avoidance of their tenures on the occasion of a sale of the superior estate for arrears of public revenue, when the arrears can be realized by such sale, and to give absolute security to such tenures by special registry, when shown to be held at rents sufficient for the security of the revenue;

and it is therefore proper, for the above and other purposes, to improve the law relating to sales of land for arrears of revenue in the provinces of [Bengal] Bihar and Orissa;

It is enacted as follows:

1. (*Laws repealed.*) *Rep. by the Repealing Act, 1870 (14 of 1870).*

2. If the whole or a portion of a *kist* or instalment of any month of the era according to which the settlement and *kistbandi* of any *mahal* have been regulated be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

As to the protection from sale of estates and shares of estates which are under the charge of the Court of Wards, see the Court of Wards Act, 1879 (Ben. Act 9 of 1879), Part III, in Vol. II of this Code.

For special procedure as to the sale or attachment of a settled estate for an arrear of land-revenue, or for any other arrear which is recoverable in the same manner as an arrear of land-revenue, see the Bengal Settled Estates Act, 1904 (Ben. Act 3 of 1904), ss. 33, 34, in Vol. III of this Code.

Certain instruments executed under the Ancient Monuments Preservation Act, 1904 (7 of 1904), are binding on purchasers at sales for arrears of land-revenue or other public demands—see s. 8 of that Act, in General Acts, 1904-09, Ed. 1909, p. 17.

THE CERTIFICATE PROCEDURE.—As to the recovery, under the certificate procedure, of arrears of revenue not realized by sale under the present Act, and of arrears of revenue due from farmers, see the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), s. 5, in Vol. III of this Code.

[²] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

“ Arrear of revenue ”
defined.

(Secs 3-5)

3 Upon the promulgation of this Act, the Board of Revenue^[1] at Latest day of Calcutta ^{Payment} ^[2] shall determine upon what dates all arrears of revenue and all demands which, by the Regulations and Acts in force, are directed to be realised in the same manner as arrears of revenue, shall be paid up in each district under their jurisdiction, in default of which payment the estates^[3] in arrear in those districts, except as hereinafter provided, shall be sold at public auction to the highest bidder

And the said Board^[1] shall give notice of the dates so fixed in the official Gazette, and shall direct corresponding publication to be made, as far as regards each district in the language of that district, in the office of the Collector^[4] or other officer duly authorized to hold sales under this Act, in the Courts of the Judge, Magistrate (or Joint Magistrate, as the case may be), and *Munsifs*, and at every *thana*-station of that district;

and the dates so fixed shall not be changed except by the said Board^[1] by advertisement and notification^[5] in the manner above described, to be issued at least three months before the close of the official year preceding that in which the new date is, or dates are, to take effect

4. (*In Sylhet, personal property of defaulters may in the first instance be distrained and sold*) Rep by the Repealing and Amending Act, 1891 (12 of 1891)

5 Provided always that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification, in the language of the district, specifying the nature and amount of the arrear or demand, and the latest date on which payment thereof shall be received, shall have been affixed, for a period of not less than fifteen clear days preceding the date fixed for payment according to section 3 of this Act, Proviso as to certain description of arrears.

in the office of the Collector, or other officer duly authorized to hold sales under this Act,

[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913) s 3, in Vol III of this Code

[2] The reference should now be construed as having been made to the Board of Revenue, Bihar and Orissa, at Patna.

[3] As to the sale of tenures which are not estates, see the Bengal Land revenue Sales Act, 1868 (Ben Act 7 of 1868), ss. 11 to 14, in Vol. II of this Code.

[4] As to the Collectorate in which estates are, for the purposes of this Act, to be deemed to be included, see the Bengal Land revenue Sales Act, 1868 (Ben Act 7 of 1868), s 10 in Vol. II of this Code

[5] For a notification issued under s 3, see the Bihar and Orissa Local Statutory Rules and Orders, Vol I, Part 15.

(Sec. 6.)

in the Court of the Judge within whose jurisdiction the land advertised lies, and

in the *Munsif's* Court and police-*thana* of the division in which the estate or share of an estate to which the notification relates is situated, or, if the estate or share of an estate be situated within the jurisdiction of more than one *Munsif's* Court or police-*thana*, in some one or more of such Courts or *thanas*, and

also at the *cutcherry* of the *malguzar* or owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, the same to be certified by the peon or other person employed for the purpose.

First.—Arrears other than those of the current year, or of the year immediately preceding.

Secondly.—Arrears due on account of estates other than that to be sold.

Thirdly.—Arrears of estates under attachment by order of any judicial authority, or managed by the Collector in accordance with such order.

Fourthly.—Arrears due on account of *takavi*, *pulbandi* or other demands not being land-revenue, but recoverable by the same process as arrears of land-revenue.

Issue of
notifications
of sale.

6. The Collector or other officer duly authorized to hold sales under this Act shall, as soon as possible after the latest day of payment fixed in the manner prescribed in section 3 of this Act, issue notifications, ^[1] in the language of the district, to be affixed in his own office and in the Court of the Judge of the district, specifying the estates or shares of estates which will be sold as aforesaid, and the day on which the sale of the same will commence which date shall not be less than ^[2] [thirty] * * * ^[3] clear days from the date of affixing the notification in the office of the Collector or other officer as aforesaid.

And, if the Government revenue of any estate or share of an estate to be sold exceed the sum of five hundred rupees, a notification of the sale of such estate or share of an estate shall be published in the official Gazette.

[1] As to service of notices upon proprietors before proceeding under this Act to realize arrears, see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 6, in Vol. II of this Code.

For mode of serving notices under the present Act, see *ibid*, s. 5, in Vol. II of this Code.

[2] The word "thirty," in s. 6, was substituted for the word "fifteen" by the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 3, in Vol. II of this Code.

[3] The words "or more than thirty," which were repealed by the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 3, are omitted.

(Secs 7-9)

Except as hereinafter provided, all estates or shares of estates so specified shall, on the day notified for sale, or on the day or days following, be put up to public auction by and in the presence of the Collector or other officer as aforesaid, and shall be sold to the highest bidder.

And no payment or tender of payment, made after sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion

Tender after latest day of payment not to stop sale

7. Whenever an estate or share of an estate is notified for sale as provided by section 6 of this Act, the Collector or other officer as aforesaid shall affix a proclamation, in the language of the district,

Notice to raiyats, etc.

in his own office, and as soon thereafter as may be in the *Muntif's* Courts and police *thanas* within which the estate or share of an estate, or any part of it, is situated, and also at the *cutcherry* of the *malguzar* or the owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, [1]

forbidding the *rai-yats* and under-tenants to pry to the defaulting proprietor any rent which has fallen due after the day fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums so paid

8. No claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, and no private demand or cause of action whatever, held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act, nor shall the plea that money belonging to the defaulter, and sufficient to pay the arrear of revenue due, was in the Collector's hand bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless, after application in due time made by the defaulter, or after the written agreement provided for in section 15 of this Act, the Collector shall have neglected, or refused on insufficient grounds, to transfer it in payment of the arrear of revenue due

Claims of defaulter against Government not to invalidate sale

9. The Collector or other officer as aforesaid shall, at any time before sunset of the latest day of payment determined according to section 3 of this Act, receive as a deposit from any person not being a proprietor of the estate or share of an estate in arrear, the amount of the arrear of revenue due to be credited in payment of the arrear at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate

Deposits received to from persons not proprietors.

[1] Also at the sub-divisional *cutcherry* within the jurisdiction of which the estate is situate—see the Bengal Land revenue Sales Act, 1863 (Ben. Act 7 of 1863), s. 7, in Vol II of this Code.

(Sec. 10.)

And in case the person so depositing, whose money shall have been credited in the manner aforesaid, shall be a party in a suit pending before a Court of Justice for the possession of the estate or share from which the arrear is due or any part thereof, it shall be competent to the said Court to order the said party to be put into temporary possession of the said estate or share, or part thereof, subject to the rules in force for taking security in the cases of parties in civil suits.

And if the person so depositing, whose money shall have been credited as aforesaid, shall prove before a competent Civil Court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale, or which he believed in good faith would have been endangered or damaged by the sale, he shall be entitled to recover the amount of the deposit, with or without interest as the Court may determine, from the defaulting proprietor.

And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such a Court that the deposit was necessary in order to protect any lien he had on the estate or share or part thereof, the amount so credited shall be added to the amount of the original lien.

Separation of
shares held
in common,
by opening
separate
account.]

[¹]10. When a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect.

The application must contain a specification of the share held in the estate by the applicant.

[¹] For fees payable on applications made under s. 10 or s. 11, see the Bengal Land Registration Act, 1876 (Ben. Act 7 of 1876), s. 70, in Vol. II of this Code.

A separate account may be opened under s. 10 or s. 11 in respect of such a share only as corresponds with the character and extent of interest in respect of which the applicant is recorded as proprietor or manager under the Land Registration Act, 1876 (Ben. Act 7 of 1876)—see s. 69 of that Act, in Vol. II of this Code.

As to the opening of a separate account, and the application of ss. 10, 12, 13 and 14 of the present Act, see also ss. 70 and 71 of the Act of 1876, in Vol. II of this Code.

As to the closings of separate accounts opened under s. 10 or s. 11 of the present Act, and the opening of fresh accounts thereunder, see ss. 72 to 74A of the Act of 1876, in Vol. II of this Code.

As to the protection from sale of shares of estates for which a separate account has been opened under s. 10 or s. 11, and which are under the charge of the Court of Wards, see the Court of Wards Act, 1879 (Ben. Act 5 of 1879), Pt. III, in Vol. II of this Code.

As to the sale for arrears of land-revenue of a share of an estate which is under partition, see the Estates Partition Act, 1897 (Ben. Act 5 of 1897), s. 16, in Vol. III of this Code.

As to separate liability for payment of road-cess and public works-cess, when a separate account has been opened under the present Act, see the Cess Act, 1880 (Ben. Act 9 of 1880), s. 44, in Vol. II of this Code.

As to separate liability for payment of sums due under the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), when a separate account has been opened under the present Act, see ss. 71 and 72 of the Act of 1882, in Vol. II of this Code.

(Secs. 11-12.)

The Collector shall then cause to be published in his own office, in the Court of the Judge, Magistrate (or Joint-Magistrate as the case may be), and *Munsifs*, and in the police-*thanas* in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him.

If, within six weeks from the date of the publication of these notices, no objection is made by any other recorded sharer, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

[¹]11. When a recorded sharer of a joint-estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries and extent thereof, together with a statement of the amount of *sadar jama* heretofore paid on account of it. Separation of shares consisting of specific portions of land by opening separate accounts.

On the receipt of this application the Collector shall cause it to be published in the manner prescribed for publication of notice in the last preceding section.

In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

[²]12. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him, or if the application be in respect of a specific portion of the land of an estate, that the amount of *sadar jama* stated by the applicant to have been heretofore paid on account of such portion of land is not the amount which has been recognized by the other sharers as the *jama* thereof, the Collector shall refer the parties to the Civil Court and shall suspend proceedings until the question at issue is judicially determined. If objection be made, parties to be referred to Civil Court.

[¹] See footnotes to section 10, *ante*, p. 402.

[²] As to the extended application of s. 12, see the third footnote to s. 10, *ante*, p. 402.

(Secs. 13-15.)

Sale of
separate
shares.

[¹]18. Whenever the Collector shall have ordered a separate account or accounts to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the Collector or other officer as aforesaid in the first place shall put up to sale only that share or those shares of the estate from which, according to the separate accounts, an arrear of revenue may be due.

In all such cases notice of the intention of excluding the share or shares from which no arrear is due shall be given in the advertisement of sale prescribed in section 6 of this Act. The share or shares sold, together with the share or shares excluded from the sale, shall continue to constitute one integral estate, the share or shares sold being charged with the separate portion, or the aggregate of the several separate portions, of *jama* assigned thereto.

Entire
estate
may be
sold under
certain
conditions.

[¹]14. If in any case of a sale held according to the provisions of the last preceding section the highest offer for the share exposed to sale shall not equal the amount of arrear due thereupon to the date of sale, the Collector or other officer as aforesaid shall stop the sale, and shall declare that the entire estate will be put up to sale for arrears of revenue at a future date, unless the other recorded sharer or sharers, or one or more of them, shall within ten days purchase the share in arrear by paying to Government the whole arrear due from such share.

If such purchase be completed, the Collector or other officer as aforesaid shall give such certificate and delivery of possession as are provided for in sections 28 and 29 of this Act to the purchaser or purchasers, who shall have the same rights as if the share had been purchased by him or them at the sale.

If no such purchase be made within ten days as aforesaid, the entire estate shall be sold, after notification for such period and publication in such manner as is prescribed in section 6 of this Act.

Deposit for
protection
of estate
from sale.

[²]15. If any recorded proprietor or co-partner of an estate shall deposit with the Collector money, or Government securities endorsed and made payable to the order of the Collector and shall sign an agreement pledging the same to Government by way of security for the *jama* of the entire estate, and authorizing the Collector to apply to the payment of any arrear of revenue that may become due from that estate the whole or any portion of the said money or securities that may be necessary for that purpose, then in the case of any arrear of revenue due from the said estate not being paid before sunset of the latest day of payment fixed under section 3 of this Act the Collector shall apply to the

[¹] As to the extended application of ss. 13 and 14, see the third footnote to s. 10, *ante*, p. 402.

[²] For fees payable on applications under s. 15, see the Bengal Land-revenue Sales (Amendment)-Act, 1862 (Ben. Act 3 of 1862), s. 3, in Vol. II of this Code.

(Secs. 16-18.)

payment of such arrear the said money or securities, or such part thereof or of any interest due on the said securities, as may be necessary; and for this purpose the Collector shall first apply any money that may be in his hands and any interest that may be due upon such securities, and may then sell and transfer the securities for any balance that may remain.

And so long as any money or securities as aforesaid, sufficient to cover any arrear that may fall due, shall remain and be available as aforesaid, the estate for the protection of which the said deposit was made shall be exempted from sale for arrears of revenue.

All moneys and securities so deposited shall be exempt from attachment otherwise than in execution of a decree of a Civil Court.

[¹]16. It shall be competent to the person making a deposit under the provision of the last preceding section, or his representative or assignee, at any time, to withdraw the deposit and to revoke the pledge of the same. Withdrawal of deposit.

17. * * * * * [²] no estate held under attachment by the Revenue-authorities otherwise than by order of a judicial authority shall be liable to sale for arrears accruing whilst it was so held under attachment. Estate under attachment.

And no estate held under attachment or managed by a Revenue officer, in pursuance of an order of a judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment or management, until after the end of the year in which such arrears accrued.

18. It shall be competent to the Collector or other officer as aforesaid, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale; and in like manner it shall be competent to the Commissioner of Revenue, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale, by a special order to the Collector or other officer as aforesaid to that effect in each case; and Power to exempt sale.

[¹] For fees payable on applications under s. 16, see the Bengal Land revenue Sales (Amendment) Act, 1862 (Ben Act 3 of 1862), s. 3, in Vol II of this Code

[²] The words and figures "No estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards; and no estate, the sole property of a minor or minors and descended to him or them by the regular course of inheritance duly notified to the Collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation 6, 1822, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same until the minor or minors, or one of them, shall have attained the full age of eighteen years, and," which were repealed by the Bengal Court of Wards (Amendment) Act, 1831 (Ben Act 3 of 1831), are omitted

(Secs. 19-22.)

no such sale shall be legal if held after the receipt of such order of exemption :

Proviso.

Provided, however, [¹] that the Collector or other officer as aforesaid, or the Commissioner, shall duly record in a proceeding the reason for granting such exemption; and provided also that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the Collector or other officer as aforesaid of the order of exemption.

Sales where to be made.

19. Sales shall ordinarily be made by the Collector or other officer as aforesaid in the Land-revenue office at the *sadar* station of the district;

Provided, however, that it shall be competent to the [Commissioner][²] to prescribe a place for holding sales other than such office whenever [he][²] shall consider it beneficial to the parties concerned.

Adjournment of sales.

20. In case the Collector or other officer as aforesaid shall be unable, from sickness, from the occurrence of a holiday or from any other cause, to commence the sale on the day of sale fixed as aforesaid, or if, having commenced it, he be unable, from any cause, to complete it, he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the Commissioner of Revenue and announcing the adjournment by written proclamation stuck up in his *cutcherry*; and so on, from day to day, until he shall be able to commence upon or to complete the sale; but with the exception of adjournments so made, recorded and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

Order of selling.

21. On the day of sale fixed according to section 6 of this Act, sales shall proceed in regular order; the estate to be sold bearing the lowest number on the *tauji* or register in use in the Collector's office of the district being put up first, and so on, in regular sequence; and it shall not be lawful for the Collector or other officer as aforesaid to put up any estate out of its regular order by number, except where it may be necessary to do so in default of deposit, as provided in section 22 of this Act.

Deposit on account of purchase-money.

22. The party who shall be declared the purchaser of an estate or share of an estate at any such public sale as aforesaid shall be required to deposit immediately, or as soon after the conclusion of the sale of the estate or share as the Collector or other officer as aforesaid may think

[¹] Formal words which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[²] The words "Commissioner" and "he" were substituted for the words "Board of Revenue" and "they" respectively by the Decentralization Act, 1914 (4 of 1914), s. 2, Schedule, Part I, *post*, p. 727.

(Secs 23-24.)

necessary, either in cash, Bank of Bengal * * *^[1] post-bills, ^[2] [currency notes], or Government securities, to be valued at the market-rate of the day, duly endorsed, twenty-five *per cent.* on the amount of his bid, and in default of such deposit the estate or share shall forthwith be put up again and sold

23. The full amount of purchase-money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of the estate or share of an estate bought by him took place, reckoning that day as one of the thirty, or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth; and, in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to Government, the estate or share shall be re-sold, and the defaulting purchaser shall forfeit all claim to the estate or share, or to any part of the sum for which it may subsequently be sold.

Full payment
of purchase-
money

And, in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public revenue, and such difference shall be taken and considered to be a part of the purchase-money, and shall be dealt with in the manner hereinafter prescribed for the disposal thereof

24. When default is made in the payment of purchase money, a Re-sale notification of the intended re sale shall be published for the period and in the manner prescribed in section 6 of this Act, but such notification shall not be published until the expiration of three clear days after the day on which the default shall have occurred, and if the payment or tender of payment of the arrear on account of which the estate or share was first sold, and of any arrear which may have subsequently become due, shall be made by or on behalf of the proprietor of the estate or share before sunset of the third day, the issue of the notification of re-sale shall be stayed. The rules contained in the last preceding section shall be applicable to every such re-sale.

Provided, that, if default of payment of purchase money shall occur more than once, the amount to be recovered from the defaulting bidders shall be the difference between the highest bid and the proceeds of the sale eventually consummated, which amount may be levied in manner aforesaid from any of the defaulting bidders to the extent of the amount by which his bid exceeds the amount realized.

[1] The words "notes or," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted

[2] The words "currency notes" in s. 22, were inserted by the Amending Act, 1903 (1 of 1903), Sch II—see post, p. 703.

(Secs. 25-29.)

25. (Appeals.) *Rep. by the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 29.*

Annulment
of sale in
special cases.

26. It shall be competent to the Commissioner of Revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any case of appeal from a sale, and to represent the case to the Board of Revenue^[1], who^[2] [* * * *] may annul the sale and cause the estate or share of an estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Sales when
final.

27. All sales of which the purchase-money has been paid up as prescribed in section 23 of this Act, and against which no appeal ^[3] shall have been preferred, shall be final and conclusive at noon of the ^[4][sixtieth] day from the day of sale, reckoning the said day of sale as the first of the said ^[4][sixty] days.

And sales against which an appeal may have been preferred and dismissed by the Commissioner shall be final and conclusive from the date of such dismissal, if more than ^[4][sixty] days from the day of sale, or if less, then at noon of the ^[4][sixtieth] day as above provided.

Certificate
of sales.

28. Immediately upon a sale becoming final and conclusive, the Collector or other officer as aforesaid shall give to the purchaser a certificate of title in the form prescribed in Schedule A annexed to this Act.

And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate or share of an estate sold being vested in the person or persons named from the date specified.^[5]

And the Collector shall also notify such transfer by written proclamation in his own office, and in the Courts of the *Munsifs* and police-*thanas* within whose jurisdictions any part of the estate or share sold shall be situated.

Delivery of
possession.

29. The Collector or other officer as aforesaid shall order delivery of possession of the estate or share purchased to be made by removing any person who may refuse to vacate the same, and by proclamation to the occupants of the property by beat of drum or in such other mode as may be customary, at some convenient place or places; and by affixing a copy.

[1] As to the exercise of functions of the Board of Revenue by other authorities, see references cited in foot-note to the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act I of 1913), s. 3, in Vol. III of this Code.

[2] The words "if they see cause may recommend to the Local Government to annul the sale; and the local Government in any such case" were omitted by the Decentralization Act, 1914 (4 of 1914), s. 2, Schedule, Part I, *post*, p. 732.

[3] For power of the Commissioner to receive appeals against sales made under this Act, and to annul such sales, see the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 2, in Vol. II of this Code.

[4] The words "sixtieth" and "sixty" were substituted for the words "thirtieth" and "thirty," respectively, by the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 8, in Vol. II of this Code.

[5] As to the effect of this certificate, see also the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 8, in Vol. II of this Code.

(Secs 30-33)

of the certificate at the *mâl cutcherry* or in some conspicuous place of the estate or share of an estate purchased

30. The party certified as the proprietor of an estate or share of an estate by purchase under this Act shall be answerable for all instalments of the revenue of Government which may fall due after the latest day of payment aforesaid. Liability of purchaser.

31. The Collector shall apply the purchase-money, first, to the liquidation of all arrears due upon the latest day of payment from the estate or share of an estate sold; and, secondly, to the liquidation of all outstanding demands debited to the estate or share of an estate in the public accounts of the district: holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate or share of an estate sold, or their heirs or representatives, to be paid to his or their receipt on demand in manner following: to wit, in shares proportioned to their recorded interest in the estate or share of an estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt. Application of purchase-money

And, if before payment to the late proprietor or proprietors of any surplus that may remain of the purchase-money, the same be claimed by any creditor in satisfaction of a debt, such surplus shall not be payable to such claimant, nor shall it be withheld from the proprietor, except under precept of a Civil Court.

32. The annulment by a Commissioner or by [1]Board of Revenue of a sale made under this Act shall be publicly notified by the Collector or other officer as aforesaid, in the same manner as the becoming final and conclusive of sales is required to be notified by section 28 of this Act; *and the amount of deposit and balance of purchase-money shall be forthwith returned to the purchaser with interest thereon at the highest rates of the current public securities which shall be paid by the Government, unless the proprietor shall have become liable for the same under the provisions of [2]section 2 of the Bengal Land-revenue Sales Act, 1868,* or section 26 of this Act. Notification of annulment of sale.

33. No sale for arrears of revenue or other demands realizable in the same manner as arrears of revenue are realizable, made after the passing of this Act, shall be annulled by a Court of Justice, except upon the ground of its having been made contrary to the provisions of this Act, and then only on proof that the plaintiff has sustained substantial injury by reason of the irregularity complained of: and no such sale shall be Jurisdiction of Civil Courts in suits to annul sales.

[1] The words "Board of Revenue" were substituted for the word "Government," by the Decentralization Act, 1914 (4 of 1914), s. 2, Sch. Part I, *post*, p. 732.

[2] These words and figures, in sections 32 and 33 were substituted for the word and figures "section 25" by the Amending Act, 1903 (1 of 1903), Sch. II—*see post*, p. 709. Bengal Act 7 of 1868 is printed in Vol. II of this Code.

(Secs. 34-37.)

annulled upon such ground, unless such ground shall have been declared and specified in an appeal made to the Commissioner under [1][section 2 of the Bengal Land-revenue Sales Act, 1868]; and no suit to annul a sale made under this Act shall be received by any Court of Justice, unless it shall be instituted within one year from the date of the sale becoming final and conclusive as provided in section 27 of this Act: and no person shall be entitled to contest the legality of a sale after having received any portion of the purchase-money:

Proviso.

Provided, however, that nothing in this Act contained shall be construed to debar any person considering himself wronged by any act or omission connected with a sale under this Act from his remedy in a personal action for damages against the person by whose act or omission he considers himself to have been wronged.

Effects of annulment of sales by decree of Court.

34. If a sale made under this Act be annulled by a final decree of a Civil Court, application for the execution of such decree shall be made within six months after the date thereof; otherwise the party in whose favour such decree was passed shall lose all benefit therefrom.

And no order for restoring such decree-holder to possession shall be passed until any amount of surplus purchase-money that may have been paid away by order of a Civil Court be repaid by him, with interest at the highest rate of the current Government securities.

And, if such party shall neglect to pay any amount so recoverable within six months from the date of such final decree, he shall lose all benefit therefrom.

If sale annulled, purchase-money to be refunded.

35. In the event of a sale being annulled by a final decree of a Court of Justice, and the former proprietor being restored to possession, the purchase-money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current public securities.

Dismissal of suit brought to oust purchaser on ground that settled estate was made for another.

36. Any suit brought to oust the certified purchaser as aforesaid on the ground that the purchase was made on behalf of another person not the certified purchaser, or on behalf partly of himself and partly of another person, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Rights of purchaser of permanently settled estate sold for its own arrears.

37. The purchaser of an entire estate in the permanently-settled districts of [Bengal,] Bihár and Orissa, sold under this Act for the recovery of arrears due on account of the same shall acquire the estate free from all encumbrances which may have been imposed upon it after

[1] These words and figures, in sections 32 and 33 were substituted for the word and figures "section 25" by the Amending Act, 1903 (1 of 1903), Sch. II—see *post*, p. 709. Bengal Act 7 of 1868 is printed in Vol. II of this Code.

(Secs 38 39)

the time of settlement, and shall be entitled to avoid and annul all under tenures and forthwith to eject all under tenants, with the following exceptions —

First — *Istimdrari* or *mukarrari* tenures which have been held at a fixed rent from the time of the permanent settlement

Secondly — Tenures existing at the time of settlement which have not been held at a fixed rent

Provided always that the rents of such tenure shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures

Thirdly — *Talukdari* and other similar tenures created since the time of settlement and held immediately of the proprietors of estates and farms for terms of years so held, when such tenures and farms have been duly registered under the provisions of this Act

Fourthly — Leases of lands whereon dwelling houses, manufactories or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship or burning or burying grounds have been made, or wherein mines have been sunk

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land, for a term exceeding twelve years, but not otherwise

Provided always that nothing in this section contained shall be construed to entitle any such purchaser as aforesaid to eject any *rayyat* having a right of occupancy at a fixed rent or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such *rayyat* otherwise than in the manner prescribed by such laws, or otherwise than the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do

38 The following rules for the registration of *Talukdari* and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates, and of farms for terms of years so held, shall be observed

Registration of certain tenures and farms.

39 There shall be two sets of registers—one for common registry and one for special registry

Common and special registry

(Secs. 43-46.)

as above provided for cases in which no objection is made within the limited time.

Registration
of leases of
certain lands.

[¹]43. Leases of lands of the description specified in the fourth exceptional class in section 37 may be registered, at the option of the holders in the manner and under the rules hereinbefore provided for the registry of *talukdari* and other similar tenures.

Registration
of old
tenure.

[¹]44. Tenures of the first and second exceptional classes in section 37 may be registered at the option of the holders; and when so registered shall be entered only in the special register.

Application for such registry shall contain the particulars specified in section 40 so far as the same are ascertainable, and notices shall be served and issued in the manner prescribed in section 41.

If within the limited time no objection is made by any recorded proprietor or by any party interested not being a proprietor, the Collector shall make such inquiries as may be necessary to satisfy him as to the validity of the tenure; and, if the result be to satisfy him that the tenure is valid, he shall report the case to the Commissioner, who, if also satisfied that the tenure is valid, shall direct it to be entered in the special register; otherwise the application for registry shall be rejected.

If within the limited time, any recorded proprietor or other party as aforesaid object to the registry of the tenure, the Collector shall examine the person so objecting or his authorized agent, and, if it shall appear to him that such person has probable ground of objection, shall suspend proceedings and refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made.

If the decision of the Civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time:

Provided always that nothing contained in this section shall be understood as rendering registration necessary for the protection of *bonâ fide* tenures of the description herein referred to.

Proviso.

45. (*Time for application for registry of tenures and farms.*) Rep. by the Bengal Land-Revenue Sales (Amendment) Act, 1862 (Ben. Act 3 of 1862).

Expenses of
measurement,
survey or
local inquiry.

46. The actual expenses of any measurement, survey or local inquiry made under sections 42 and 44 of this Act, shall be borne by the party who applies for the registry of his tenure or farm; and such party may be required by the Collector from time to time to make such advances on this account as he may consider necessary.

[¹] See footnotes to s. 40, ante, p. 412.

(Secs 47-51)

47. No Civil Court shall be competent to order the Revenue-authorities to enter any tenure or farm in the special register

Civil Court not competent to order entry in special register

Provided always that the refusal of the Revenue authorities so to register any tenure or farm shall not affect the title of the holder, whatever it may be

48. Subject to the general law of limitation,[¹] any person thinking himself wronged by the registry of a tenure or farm may file a suit for the cancelment of the same

Suit for cancelment of registry of tenure or farm

49. In the execution of their functions in the registration of tenures and farms under this Act, all subordinate Revenue authorities shall proceed in accordance with the general instructions which they may receive from the superior Revenue authorities to whom they are subordinate, and from the Local Government, and all orders passed under the sections aforesaid shall be open to appeal in usual course *

Proceeding of Revenue authorities in registration of tenures etc.

The order of a Commissioner for the special registry of a tenure under the provisions of this Act shall be open at any time within one year from the date of registry to revision by the Board of Revenue[²] * * * * *,[³] on the ground of the Government revenue not having been sufficiently secured, or of the invalidity of the tenure, as the case may be

50. Entry in the special register shall be an effectual protection of the tenure or farm so registered, unless, in a suit instituted by Government in a Civil Court within the period allowed for suits for the recovery of the public revenue, a decree be passed pronouncing the registration to have been obtained by fraud, to the injury of the Government revenue

Effect of entry in special register

Provided that a tenure or farm in the hands of a *bona fide* purchaser for value shall not be avoided by reason of such fraud

But the tenure or farm shall be liable to such amount of rent as would have been fair and equitable at the time of the special registry thereof—such amount to be fixed by the Collector

51. Tenures and farms of the third exceptional class described in section 37 of this Act, for the special registration of which application shall be made within the prescribed time, and in respect of which the Collector shall have commenced the inquiry prescribed in section 42, shall in case of the sale of the parent estate for arrears of revenue, be

Protection of *third class* tenures pending inquiry in case of sale of parent estate for arrears of revenue

[¹] See now the Indian Limitation Act 1908 (9 of 1908), in General Acts, 1904-09 Ed 1909 p 476.

[²] As to the exercise of functions of the Board of Revenue by other authorities see references cited in foot note to the Bihar and Orissa Board of Revenue Act, 1913 (B and O Act 1 of 1913) s 3 in Vol III of this Code

[³] The words "or the Local Government" which were repealed by the Decentralisation Act, 1914 (4 of 1914) s 2 Sch Part I, post p 732 are omitted

(Secs. 52-53.)

protected pending the duration of such inquiry and shall be protected eventually by registration, if the final award of the Revenue-authorities upon such application be in favour of the claimant.

Rights of
purchaser of
estate not
permanently
settled, sold
for its own
arrears.

52. The purchaser of an estate in a district not permanently settled, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignee of the original engager, as well as all agreements with *raiyats* or the like, settled or accredited by the first engager or his representatives, subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter or renew, saving always and except leases of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship or burying grounds have been made, or wherein mines have been sunk, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect:

Provided that nothing contained in this section shall be construed to entitle any purchaser of land at a public sale for arrears of revenue to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid, than was demandable by the former proprietor, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, or in cases in which it may be proved that, according to the custom of the *pargana*, *mauza* or other local division, such persons are liable to be called upon for any new assessment or other demand not interdicted by the Regulations of Government.

Rights of
purchaser
being sharer
in estate;

53. Excepting * * * *^[1] sharer with whom the Collector, under sections 10 and 11 of this Act, has opened separate accounts, any recorded or unrecorded proprietor or co-partner, who may purchase the estate of which he is proprietor or co-partner, or who by re-purchase or otherwise may recover possession of the said estate, after it has been sold for arrears under this Act, and likewise any purchaser of an estate sold for arrears or demands other than those accruing upon itself, shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale, and shall not acquire any rights in respect

and of
purchaser of
estate not
sold for its
own arrears.

^[1] The words and figures "sharers in estates under *batwara* who may have saved their shares from sale under ss. 33 and 34, Regulation 19, 1814, and," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

(Secs 54 60)

to under tenants or *raiyats* which were not possessed by the previous proprietor at the time of the sale of the said estate

54 When a share or shares of an estate may be sold under the provisions of section 13 or section 14, the purchaser shall acquire the shares subject to all encumbrances and shall not acquire any rights which were not possessed by the previous owner or owners. Rights of purchasers of shares of estate.

55 Arrears of rent which on the latest day of payment may be due to the defaulter from his under tenants or *raiyats* shall, in the event of a sale, be recoverable by him after the said latest day, by any process except distraint which might have been used by him for that purpose on or before the said latest day. Recovery of arrears due to defaulters

56 Any Collector or other officer as aforesaid conducting a sale under this Act shall be competent to punish any contempt committed in his presence in open *cutcherry* or office for the time being by fine to an extent not exceeding two hundred rupees commutable if not paid, to imprisonment in the civil jail for a period not exceeding one month, and the Magistrate to whom such an offender may be sent by a Collector or other officer as aforesaid shall carry his sentence into effect. Punishment for contempt.

Provided that an appeal from any order passed under this section shall lie to the Revenue Commissioner whose decision shall be final

57 A default to make good a bid by making the deposit required by section 22 of this Act shall be held to be a contempt. Default as to deposit a contempt

58 When an estate is put up for sale under this Act for the recovery of arrears of revenue due thereon if there be no bid the Collector or other officer as aforesaid may purchase the estate on account of the Government for one rupee, or if the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale, the Collector or other officer as aforesaid may take or purchase the estate on account of the Government at the highest amount bid, in both which cases the Government shall acquire the property subject to the provisions of this Act [1]. Government may purchase also at sale.

59 (*Fees and charges demandable by Collector*) *Rep by the Bengal Land revenue Sales (Amendment) Act, 1862 (Ben Act 3 of 1862)*

60 The provisions of Regulation 7, 1822 [2] and Regulation 9, 1825 [3] shall be in force in every estate in any part of which a measurement survey, or local inquiry may be made under this Act, and in every estate purchased or taken on account of Government under this Act. Regulations 7, 1822 and 9, 1825, be in force in certain estates.

[1] As to the management of estates purchased by the Collector see the Bengal Government in solemn Regulation 1822 (11 of 1822) s. 36 *ante* p. 269.

[2] The Bengal Land revenue Settlement Regulation 1872. It is printed *ante* p. 233.

[3] The Bengal Land revenue Settlement Regulation, 1825. It is printed *ante* p. 207.

(Secs. 61-62.)

Interpreta-
tion.

61. In the construction of this Act the word "Collector" shall include a Deputy Collector or other officer exercising, by the authority of Government, the powers of a Collector or Deputy Collector.^[1]

Application
of Act.

62. The operation of this Act shall be confined to such parts of the Lower Provinces in the Presidency of Fort William in Bengal ^[2] as are or shall be subject to the general Regulations of that Presidency.^[3]

[4]SCHEDULE A.

I certify that *A. B.* has purchased, under Act No. II of 1859, the *mahál* (or share of a *mahál*) specified below, standing in the *tauzi* of the district of _____ and that his purchase took effect on the _____ day of _____
(being the day after that fixed for last day of payment).

(Signed.)

D. E.,

Collector.

SPECIFICATION.

(If of an entire *mahál*.)*Tauzi* numberName of *mahál*

Name of the former proprietor

Sadar jama(If of a share of a *mahál*.)*Tauzi* number of the entire *mahál*Name of the entire *mahál**Sadar jama* of the entire *mahál*

Description of the share sold

Subordinate *tauzi* number of the share sold

[1] Cf. the definition of "Collector" in the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), s. 1, in Vol. II of this Code. That definition, and the definitions of "proprietor," "revenue," "estate," "tenure," and "jurisdiction" (of a Collector) contained in that section, apply to the present Act.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[3] But see foot-notes under the heading "Local Extent," ante, p. 397.

[4] This Schedule is referred to in s. 28, ante, p. 408.

(Sec. 62.)

Name of the former proprietor of the share sold
Sadar jama for which the share sold is separately liable.

SCHEDULE B.

FEES.

Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

ACT 6 OF 1876

(THE CHOTA NAGPUR ENCUMBERED ESTATES ACT, 1876)

CONTENTS.

PREAMBLE.

I—PRELIMINARY

SECTION

- 1 Short title

II—VESTING ORDER.

- 2 Power to vest management of property in an officer appointed by Commissioner
2A Power of Deputy Commissioner to order production of statement and documents.
2B Power of Commissioner to prohibit sale of immovable property
3 Effect of order
Bar of suits
Freedom from arrest
Movable property not attachable for prior debts
Cessation of power to alienate
Immovable property freed from attachment
Cessation of power to contract

III—DUTIES OF MANAGER.

- 4 Manager to receive rents and profits, and pay therefrom—
the Government demand,
rent due to superior landlord,
for maintenance of holder and his heir,
loans raised for estate,
costs of repairs and improvements,
costs of management, debts and liabilities

IV—SETTLEMENT OF DEBTS

- 5 Notice to claimant against holder of property
Notice how published
6 Claim to contain full particulars
Documents to be given up
Entries in books
Exclusion of documents not produced
7 Debt not duly notified to be barred
Admission of claim within further period
Barring of debts incurred after making petition for postponement of orders for application of Act.
8 Determination of debts
9 Power to inquire into consideration for leases or grants.
Power to set aside leases or grants.
10 Appeal to Deputy Commissioner
Appeal to Commissioner
10A Review by Commissioner
11 Scheme for settlement of debts
Power to return scheme for revision

SECTION.

- 12. Restoration of owner to his property.
 - Restoration to be notified.
 - Revival of barred proceedings and debts.
 - Re-instatement of mortgagees.
 - Period of limitation as to revived proceedings and debts.
- 12A. Continuance of disabilities after restoration of property to owner.

V.—POWERS OF MANAGER.

- 13. Power to call for further particulars.
- 14. Power to summon witnesses and compel production of documents.
- 14A. Power to order production of title to tenures and under-tenures.
- 15. Investigation to be deemed a judicial proceeding.
 - Statements of persons examined to be evidence.
- 16. Manager to have powers of holder of estate.
 - Power to remove mortgagee or conditional vendee in possession.
- 17. Power to lease.
- 18. Power of Manager to raise money by mortgage, sale or loan.
- 18A. Freedom from obligation to inquire into necessity for, or application of, money.
- 18B. Power of Manager to contract and take action for the benefit of the property.

VI.—MISCELLANEOUS.

- 19. Power to make rules.
- 19A. Power to make orders as to education of holder's children.
 - Penalty for disobedience.
- 19B. Recovery of fines.
- 20. Power to appoint new Managers.
- 21. Managers to be public servants.
- 21A. Control by Board of Revenue.
- 21B. Suits and appeals by and against holder during management.
- 22. Bar of suits.
- 23. Saving of jurisdiction of Courts in Chota Nagpur in respect of certain suits.
- 24. (*Repealed.*)

ACT 6 of 1876.

[THE CHOTA NAGPUR ENCUMBERED ESTATES ACT, 1876.][¹]

(14th March, 1876.)

An Act to relieve certain landholders in Chota Nagpur.

Whereas it is expedient to provide for the relief of holders of land in Chota Nagpur who may be in debt, and whose immovable property may be subject to mortgages, charges and liens; It is hereby enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called the Chota Nagpur Encumbered Estates Act, 1876.

II.—VESTING ORDER.

2. Whenever any holder of immovable property,
or (when such holder is a minor, or of unsound mind, or an idiot)
his guardian, committee or other legal curator,
or the person who would be heir to such holder if he died intestate,
or (when such person is a minor, or of unsound mind, or an idiot)
his guardian, committee or other legal curator,

Power to vest
management
of property in
an officer
appointed by
Commissioner.

[²]for the Deputy Commissioner within whose jurisdiction any such property belonging to such holder is situate, when—

- (i) attachment has been made of, or a proclamation has been issued for the sale of, such property or any portion thereof, in execution of a decree or order of a Civil Court or a Revenue Court, or

of Object and Reasons, see Gazette of India, s. in Council, see *ibid*, 1876, Supplement,

Chota Nagpur Division (see the title and Act 5 of 1874, *post*, p. 451, with certain other Nagpur District—see the Deco Estate Act, 1826 into character, has not been reprinted in

THIS CODE

[¹] These clauses in square brackets in s. 2 were substituted for the words "or, when any such property belonging to such holder has been attached in execution of a decree of a Civil Court, the Deputy Commissioner within whose jurisdiction such property is situate" by the Chota Nagpur Encumbered Estates (Amendment) Act, 1900 (Ben. Act 3 of 1900), s. 2 (1), in Vol III of this Code.

(Sec. 2.)

(ii) such Deputy Commissioner is satisfied, after making such inquiry as he may think fit, and after considering and placing on record all representations (if any) made by such holder, that such holder has entered upon a course of wasteful extravagance likely to dissipate his property,]

applies in writing to the Commissioner, stating that the holder of the said property is subject to, or that his said property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the Commissioner may, with the previous consent of the [¹]Lieutenant-Governor of Bengal [²] [(to be obtained through the Board of Revenue),] by order published in the *Calcutta Gazette*, appoint an officer (hereinafter called the Manager), and vest in him the management of the whole or any portion of the immovable property of or to which the said holder is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him or his heir, during the continuance of such management:

[³] [Provided as follows—

First, if any holder referred to in clause (ii) of this section petitions the Commissioner, while the inquiry referred to in that clause is being made, to postpone, until the petitioner has been heard, the passing of orders on any request that the Deputy Commissioner may make for applying the provisions of this Act to his case,

and if a request as aforesaid be made by the Deputy Commissioner, the Commissioner shall appoint a day for hearing the petitioner; and if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Commissioner shall not pass any order in the matter until he has been heard;

Secondly, if any holder referred to in clause (ii) of this section petitions the Board of Revenue, while any proceedings are pending before the Commissioner under proviso *First*, to postpone, until the petitioner has been heard, the passing of orders on any request that the Commissioner may make for the consent of the Lieutenant-Governor to the application of the provisions of this Act to his case,

[¹] Now the Lieutenant-Governor of Bihar and Orissa.

[²] These words and brackets in square brackets in s. 2 were inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 2 (2), in Vol. III of this Code.

[³] These provisos in square brackets in s. 2 were inserted by s. 2 (3) of the same Act.

(Sec. 2A.)

and if a request as aforesaid be made by the Commissioner,

the Board of Revenue shall appoint a day for hearing the petitioner; and if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Board shall not pass any order in the matter until he has been heard;

Thirdly, the consent of the Lieutenant-Governor shall not be given in the case of any holder referred to in clause (ii) of this section unless either—

such holder belongs to a family of political or social importance, or

the Lieutenant-Governor is satisfied that it is desirable, in the interests of the tenants of such holder, that such consent should be given.]

[¹] [Every application under this section must state—

(a) the particulars of the debts and liabilities as aforesaid to which the said holder is subject or with which his immovable property is charged; and

(b) the particulars of the immovable property of or to which he is then possessed or entitled in his own right or which he is entitled to redeem.

Every such application must, except when it is made by a Deputy Commissioner, be verified by the applicant or by some other competent person in the manner required by law [²] for the verification of plaints; and, if it contains any averment which the person making the verification knows or believes to be false or does not know or believe to be true, he shall be deemed to have given false evidence within the meaning of 1860. the Indian Penal Code.^[3]

[⁴]2A. (1) For the purpose of making an application under section 2 in the case of any holder, the Deputy Commissioner may, by written order, require the said holder to produce before him, on a date to be stated in such order,—

Power of Deputy Commissioner to order production of statement and documents.

(i) a statement in writing, showing—

(a) all debts and liabilities to which the said holder is subject,

[¹] These clauses in square brackets in s. 2 were added by the Chota Nagpur Encumbered Estates (Amendment) Act, 1894 (Act 5 of 1894), s. 2, *post*, p. 451.

[²] See now rule 15 in Order VI in Schedule I to the Code of Civil Procedure, 1908 (Act V of 1908).

[³] Printed in General Acts, 1834-67, Ed. 1907, page 243.

[⁴] S. 2A was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 3, in Vol. III of this Code.

(Secs. 2B-3.)

- (b) the amount, kind and particulars of his property, and the annual value of any such property not consisting of money,
- (c) the names and residences of his creditors, so far as they are known to, or can be ascertained by him, and
- (d) such other information as the Deputy Commissioner may, by his order, require, and
- (ii) such documents relating to his estate, which are in the possession, power or control of the holder, as the Deputy Commissioner may deem necessary.

(2) The Deputy Commissioner may, by a like order, call upon any person in whose possession, power or control he has reason to believe there is any document relating to a debt or liability to which the holder is subject, to submit the same to him for the aforesaid purpose.

Power of
Commissioner
to prohibit
sale of immov-
able property.

[¹]2B. At any time after the receipt of an application under section 2 from or in the case of any holder, the Commissioner may, by order, prohibit the sale of the immovable property of such holder or any portion thereof, in execution of any decree or order of any Civil or Revenue Court, until the passing of final orders on such application, either rejecting it or vesting the property in a manager.

Effect of or-
der.

3. [²][On the publication of an order under section 2] the following consequences shall ensue:—

Bar of suits.

First, all proceedings which may then be pending in any Civil Court in British India,^[3] [or in any Revenue Court in Bengal], in respect to such debts or liabilities, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

Freedom from
arrest.

Secondly, so long as such management continues, the holder of the said property and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the said holder was immediately before the said publication subject, or with which the property so vested as aforesaid or any part thereof was at the time of the said publication charged, other than debts due, or liabilities incurred, to Government,

[¹] S. 2B was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1911 (Ben. Act 4 of 1911), s. 2, in Vol. III of this Code.

[²] The words and figure in square brackets in s. 3 were substituted for the words "On such publication" by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (Act 5 of 1884), s. 3, *post*, p. 451.

[³] These words "or in any Revenue Court in Bengal" in s. 3, were inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 4 (1) in Vol. III of this Code.

(Sec. 4)

nor shall their movable property be liable to attachment or sale, ^{Movable property not attachable for} under process of any Civil Court in British India ^[¹] [or any Revenue Court in Bengal], for or in respect of such debts and liabilities, other than as aforesaid, and ^{prior debts}

Thirdly, so long as such management continues,

Cessation of power to alienate

(a) the holder of the said immovable property and his heir shall be incompetent to mortgage, charge, lease or alienate their immovable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom,

(b) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government, and

Immovable property freed from attachment.

(c) the holder of the same property and his heir shall be incapable of entering into any contract which may involve them, or either of them, in pecuniary liability

Cessation of power to contract.

III—DUTIES OF MANAGER

4. The Manager shall, during his management of the said immovable property, receive and recover all rents and profits due in respect thereof, and shall, upon receiving such rents and profits, give receipts for the same

Manager to receive rents and profits

From the sums so received, he shall pay—

first, the Government revenue, and all debts or liabilities for the time being due or incurred to Government;

and pay therefrom—the Government demand,

secondly, in the case of under-tenures, the rent (if any) due to the superior landlord, in respect of the said property,

rent due to superior landlord,

thirdly, such annual sum as appears to the Commissioner requisite for the maintenance of the holder of the property, his heir, and their families,

for maintenance of holder and his heir,

[²] *fourthly*, all sums due in re-payment of loans effected under the power conferred by clause (c) of section 18];

loans raised for estate,

[³] *fifthly*, the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Commissioner;

costs of repairs and improvements,

of the Vol. ... were inserted by a 4 (2) (Ben. Act 3 of 1909), in 1909. same Act same section.

(Secs. 5-7.)

costs of
management,
debts and
liabilities.

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the holder of the property and his heir as may be established under the provisions hereinafter contained,

* * * * *

IV.—SETTLEMENT OF DEBTS.

Notice to
claimant
against
holder
of property.

5. On the publication of the order vesting in him the management of the said property, the Manager shall publish a notice, in English^[2] [and the language of the district or estate], calling upon all persons having claims against the holder of the said property to notify the same in writing to such Manager within three months from the date of the publication.

Notice how
published.

Such notice shall be published by being posted at the *cutcheries* in the district or districts in which the said property lies, and at such other places as the Manager thinks fit.

Claim to
contain full
particulars.

6. Every such claimant shall, along with his claim, present full particulars thereof.

Documents to
be given up.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

Entries in
books.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Exclusion of
documents
not produced.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Debt not
duly notified
to be barred.

7. Every debt or liability, other than debts due, or liabilities incurred, to Government or (in the case of under-tenures) the rent due to the superior landlord, to which the holder of the property is subject, or with which the property is charged, and which is not duly notified

[1] The words "and also in or towards the re-payment, either before or after the liquidation of such debts and liabilities, of any loan received from the Government by the Manager under this Act" which were repealed by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 5 (2), in Vol. III of this Code are omitted.

[2] These words in square brackets in s. 5 were substituted for the words "Urdu and Hindi" by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 6, in Vol. III of this Code.

(Secs 8-9)

to the Manager within the time and in manner hereinbefore mentioned, shall be barred

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of sections 5 and 6, the Manager may admit his claim within the further period of [1] [six months] from the expiration of the said period of three months

Admission of claim within further period.

[2] [If a holder of property has petitioned the Commissioner, under the first proviso in section 2 or the first proviso to 12A, sub section (5), to postpone the passing of orders on any request that the Deputy Commissioner might make for applying or re applying the provisions of this Act to his case

Barring of debts incurred after making petition for postponement of orders for application of Act.

every debt or liability which such holder has, after the date on which the said request was made, incurred, or charged upon his property, shall be barred, with the exception of—

- (a) debts due, or liabilities incurred, to the Government,
- (b) debts or liabilities which the Deputy Commissioner is satisfied had necessarily to be incurred for the maintenance of such holder or his family,
- (c) in the case of under-tenures, the rent due to the superior landlord, and
- (d) interest due in respect of debts or liabilities incurred before the said date]

8 The Manager shall, in accordance with the rules to be made under this Act, determine the amount of all principal debts and liabilities justly due to the several creditors of the holder of the property, and to persons holding mortgages, charges or liens thereon, and the interest (if any) due at the date of such determination, in respect of such debts and liabilities

Determination of debts.

9. If such property or any part thereof be in the possession of any person claiming to hold it under a lease [3] [for rent-free or maintenance grant] dated within the three years immediately preceding the publication of the order mentioned in section 2, the Manager, with the sanction of the Deputy Commissioner and Commissioner (or of the Commissioner

Power to inquire into consideration for leases or grants.

[1] The words "six months", in s. 7, were substituted for the word "nine months" by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (Act 5 of 1884), s. 5, post, p. 451

[2] These clauses in square brackets in s. 7 were added by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben Act 3 of 1909), s. 7, in Vol III of this Code

[3] These words in square brackets in s. 9 were inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben Act 3 of 1909), s. 8 (1) (a), in Vol III of this Code

(Secs. 10-11.)

only, if the Deputy Commissioner be himself the Manager), may inquire into the sufficiency of the consideration for which the lease^[1] [or grant] was given;

Power to set aside leases or grants.

and, if such consideration appear to him insufficient, may by order either set aside the lease^[1] [or grant] or cause the person so in possession to pay such consideration for the said lease^[1] [or grant] as the Manager thinks fit, and in default of such payment the lease^[1] [or grant] shall be cancelled:

[²][Provided that no rent-free or maintenance grant shall be set aside or cancelled without the previous sanction of the Commissioner, which may be accorded only if he is satisfied that the grant was not made in good faith.]

Appeal to Deputy Commissioner.

10. An appeal against any refusal, admission, determination or order under sections 6, 7, 8 or 9, [³] [except a refusal under the proviso to section 9], shall lie, if preferred within six weeks from the date thereof, to the Deputy Commissioner within whose jurisdiction the property is situate; and the decision of the Manager, if no such appeal has been so preferred, [⁴] [shall, subject to the provisions of sections 10A and 21A, be final]:

Provided that, if the Deputy Commissioner be himself the Manager, the appeal shall lie to the Commissioner.

Appeal to Commissioner.

An appeal shall lie from any decision of the Deputy Commissioner, if preferred within six weeks of the date of his decision, to the Commissioner; and the decision of such Commissioner, or of the Deputy Commissioner, if no such appeal has been so preferred^[4] [shall, subject to the provisions of sections 10A and 21A, be final].

Review by Commissioner.

[⁵]**10A.** The Commissioner may of his own motion review any order or proceeding under sections 6, 7, 8, 9 or 10, and may revise, modify, or reverse the same.

Scheme for settlement of debts.

11. When the amount due in respect of the debts and liabilities mentioned in section 8 has been finally determined, the Manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Commissioner, shall be carried into effect.

[¹] The words " or grant " were inserted by s. 8 (1) (b) of the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), in Vol. III of this Code.

[²] This proviso was added by s. 8 (2) of the same Act.

[³] These words and figures in square brackets in s. 10 were inserted by s. 9 (a) of the same Act.

[⁴] These words, figures and letters in s. 10 were substituted for the words " shall be final " by s. 9 (b) of the same Act.

[⁵] S. 10A was inserted by s. 10 of the same Act.

(Sec 12)

Until such approval is given the Commissioner may, as often as he thinks fit, send back such scheme to the Manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme

Power to
return scheme
for revision.

12 [1] [When all the debts and liabilities mentioned in the schedule referred to in section 11, and the amount of any loan^[2] [affected under the power conferred by clause (c) of section 18,] together with the interest (if any) due thereon, have been paid and discharged],

Restoration
of owner to
his property

[3] [or if the Commissioner, at any time before a scheme has been approved by him under section 11, thinks that the provisions of this Act should not continue to apply to the case of the holder of the said property or his heir],

[4] [or if at any time an arrangement is made for the satisfaction of the debts and liabilities which is accepted by the creditors and approved by the Commissioner],

such holder or his heir shall be restored to the possession and enjoyment of the property, or of such part thereof as has not been sold by the Manager under the power contained in section 18, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained

[5] [Provided that, where a fresh order has been made under section 2, in pursuance of section 12A, sub section (5), re appointing a Manager and vesting in him the management of the whole or any portion of the property of any holder, such property shall not be restored to such holder, but shall be retained by the Manager for restoration to the heir of such holder in due course]

Where the holder of the property or his heir is so restored under the circumstances mentioned in the second clause of this section, such restoration shall be notified in the *Calcutta Gazette*, and thereupon the proceedings, processes, executions and attachments mentioned in section 3 (so far as they relate to debts and liabilities which the Manager has not paid off or compromised), and the debts and liabilities barred

Restoration
to be notified

Revival of
barred pro-
ceedings and
debts.

[1] This clause in square brackets in s. 12 was substituted for the original clause by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (Act 5 of 1884), s. 6 (1), post p. 452.

[2] These words in square brackets in s. 12 were substituted for the words received from the Government under section eighteen by the Chota Nagpur Encumbered Estates (Amendment) Act 1909 (Ben Act 3 of 1909) s. 11 (1), in Vol. III of this Code.

[3] The clause in square brackets in s. 12 was substituted for the original clause by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (Act 5 of 1884) s. 6 (7), post p. 452.

[4] This clause in square brackets in s. 12 was inserted by s. 6 (3) of the same Act.

[5] This provision in s. 12 was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben Act 3 of 1909) s. 11 (2) in Vol. III of this Code.

(Sec. 12A.)

Reinstatement of mortgagees.

by section 7, shall be revived; and any mortgagee or conditional vendee dispossessed under section 16 shall be reinstated, unless his claim under the mortgage or conditional sale has been satisfied;

Period of limitation as to revived proceedings and debts.

and in calculating the periods of limitation applicable to such revived proceedings, and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section 2^[1] [or the making of the order (if any), mentioned in section 2B] shall be excluded.

Continuance of disabilities after restoration of property to owner.

[²] **12A.** (1) When the possession and enjoyment of property is restored, under the circumstances mentioned in the first or the third clause of section 12, to the person who was the holder of such property when the application under section 2 was made, such person shall not be competent, without the previous sanction of the Commissioner,—

(a) to alienate such property, or any part thereof, in any way, or

(b) to create any charge thereon extending beyond his lifetime.

(2) If the Commissioner refuses to sanction any such alienation or charge, an appeal shall lie to the Board of Revenue, whose decision shall be final.

(3) Every alienation and charge made or attempted in contravention of sub-section (1) shall be void.

(4) The Deputy Commissioner may at any time, either of his own motion or on the application of any person interested, make an inquiry to ascertain whether any holder of property who is referred to in sub-section (1) has made or attempted to make any alienation or charge in contravention of that sub-section, and shall consider and place on record all representations (if any) made by such holder and by the person in whose favour such alienation or charge is alleged to have been made.

(5) If the Deputy Commissioner is satisfied, after making such an inquiry, that such holder has made or attempted to make any alienation or charge in contravention of sub-section (1), he may make a report to the Commissioner, setting forth the result of the inquiry and showing all debts and liabilities to which such holder is subject, and requesting that the provisions of this Act be re-applied to his case; and the Commissioner may, with the previous consent of the Lieutenant-Governor (to be obtained through the Board of Revenue), publish a fresh order under section 2, re-appointing a Manager and vesting in him the management of the whole or any portion of the property of such holder:

[¹] These words in square brackets were inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1911 (Ben. Act 4 of 1911), s. 3, in Vol. III of this Code.

[²] S. 12A was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 12 in Vol. III of this Code.

(Secs. 13-14.)

Provided as follows—

First, if the said holder petitions the Commissioner, while the said inquiry is being made, to postpone, until the petitioner has been heard, the passing of orders on any request that the Deputy Commissioner may make for re-applying the provisions of this Act to his case,

and if a request as aforesaid be made by the Deputy Commissioner, the Commissioner shall appoint a day for hearing the petitioner; and if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Commissioner shall not pass any order in the matter until he has been heard;

Secondly, if the said holder petitions the Board of Revenue, while any proceedings are pending before the Commissioner under proviso *first*, to postpone, until the petitioner has been heard, the passing of orders on any request that the Commissioner may make for the consent of the Lieutenant-Governor to the re-application of the provisions of this Act to his case,

and if a request as aforesaid be made by the Commissioner, the Board of Revenue shall appoint a day for hearing the petitioner; and if he appears, either in person or by agent, on the day so appointed, and on the subsequent day (if any) to which the hearing is adjourned, the Board shall not pass any order in the matter until he has been heard.

(6) No suit shall be brought to charge any person to whom property is restored under the circumstances mentioned in the first or the third clause of section 12—

(i) upon any promise, made after such restoration, to pay any debt contracted while the management of the property was vested in the Manager, or

(ii) upon any ratification, made after such restoration, of any promise or contract made while the management of the property was vested in the Manager,

whether or not there be any new consideration for such promise or ratification.

V.—POWERS OF MANAGER.

13. The Manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied. Power to call for further particulars.

14. For the purposes of this Act the Manager may summon and enforce the attendance of witnesses and compel them to give evidence, Power to summon witnesses.

(Secs. 14A-17.).

and compel
production of
documents.

and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.^[1]

Power to
order produc-
tion of title
to tenures
and under-
tenures.

^[2] 14A. (1) The Manager may order all holders of tenures and under-tenures on property under his management to produce their evidence of title to such tenures and under-tenures.

(2) Any person who refuses to comply with an order of the Manager under sub-section (1) shall be liable, by order of the Deputy Commissioner, to a fine not exceeding five hundred rupees:

Provided that the Deputy Commissioner shall, before passing such order, hear any explanation or objection that may be made by such person.

Investigation
to be deemed
a judicial
proceeding.

15. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.^[3]

Statements of
persons ex-
amined to be
evidence.

And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Manager to
have powers
of holder of
estate.

16. The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said immovable property, the same powers as the holder of the property would have had for such purpose if this Act had not been passed.

Power to re-
move mortga-
gee or condi-
tional vendee
in possession.

And if such property, or any part thereof, be in the possession of any mortgagee or conditional vendee, the Manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour, but without prejudice to the mortgagee or vendee preferring his claim under the provisions hereinbefore contained.

Power to
lease.

17. Subject to the rules made under section 19, the Manager shall have power to demise all or any part of the property under his management for any term of years^[4] [or in perpetuity], to take effect in

^[1] This reference to Act VIII of 1859 should now be read as applying to Act V of 1908 (the Code of Civil Procedure, 1908)—see s. 158 of the latter Act.

^[2] S. 14A was inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 6 of 1909), s. 13 in Vol. III of this Code.

^[3] Printed in General Acts, 1834-67, Ed. 1909, p. 248.

^[4] The words in square brackets in s. 17 were substituted for the words "not exceeding twenty years absolute" by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (Act 5 of 1884), s. 7, *post*, p. 452.

(Secs 18-19)

possession in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon

[¹]18 After a scheme has been approved by the Commissioner under section 11, the Manager shall, subject to the sanction of the Commissioner, have power,—

Power of Manager to raise money by mortgage, sale, or loan.

(a) to demise by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the date of publication of the order under section 2, or

(b) to sell by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of such property as may appear expedient,

for the purpose of raising any money which may be required for the settlement of the debts and liabilities to which the holder of the property is subject, or with which such property or any part thereof is charged, or,

(c) to borrow money, at such rate of interest as appears reasonable to the Board of Revenue,

for the aforesaid purpose or for the purpose of meeting the costs of such repairs and improvements of the property as appear necessary to the manager and are approved by the Commissioner

[²] 18A. (1) A mortgagee advancing money upon any mortgage made under section 18 shall not be bound to see that such money is wanted, or that no more than is wanted is raised

Freedom from obligation to inquire into necessity for or application of money

(2) The receipt of the Manager for any moneys paid to him as such shall discharge the person paying the same therefrom and from being concerned to see to the application thereof

[³]18B. Subject to the sanction of the Commissioner the Manager shall have power to enter upon any contract or to execute or relinquish any lease or counterpart of a lease, or to take any action not otherwise provided for in this Act which in his opinion is necessary for the proper care and management of the property

Power of Manager to contract and take action for the benefit of the property

VI—MISCELLANEOUS

19 The Lieutenant Governor of Bengal may [⁴][subject to the control of the Governor General in Council] from time to time make rules, consistent with this Act, to regulate the following matters —

Power to make rules.

(a) the security to be required from subordinate officer under this Act,

[¹] The ss. 18, 18A and 18B here printed were substituted for the former s. 18 by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909) s. 14 in Vol. III of this Code

[²] Ss. 18A and 18B are new—see footnote [¹] on page 423 ante

[³] The words in square brackets in s. 19 were inserted by the Decentralization Act 1914 (Act IV of 1914) s. 2 and the Sch. Pt. I post p. 734

(Secs. 19A-20.)

- [¹] [(aa). the classes of cases which may be submitted by the Commissioner for the consent of the Lieutenant-Governor under section 2;]
- (b) the notices to be given under this Act and the publication of such notices;
- (c) the procedure to be followed in determining under section 8 the debts and liabilities due to creditors and other persons and in performing the other duties imposed on any officer by this Act;
- (d) the allowance of interest on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment;
- (e) the order of paying debts and liabilities so determined; and, generally, for the guidance of officers in all matters connected with the enforcement of this Act.

Such rules, when [²] * * * * * published in the *Calcutta Gazette*, shall have the force of law.

[³] **19A.** (1) The Commissioner may make such orders as to him may seem fit in respect of the education of any child of a holder whose property is being managed under the provisions of this Act otherwise than on the application of the Deputy Commissioner.

(2) Any person who disobeys any order made by the Commissioner under sub-section (1) shall be liable, by order of the Deputy Commissioner, to a fine not exceeding five hundred rupees:

Provided that the Deputy Commissioner shall, before passing such order, hear any explanation or objection that may be made by such person.

[³] **19B.** Any fine imposed by the Deputy Commissioner under section 14A or section 19A shall be recoverable as an arrear of land-revenue.

20. Whenever the Commissioner thinks fit, he may appoint any officer to be a Manager in the stead of any Manager appointed under this Act; and thereupon the property then vested under this Act in the former Manager shall become vested in the new Manager.

[¹] Clause (aa) was inserted in s. 19 by the Chota Nagpur Encumbered Estates (Amendment) Act, 1884 (Act 5 of 1884), s. 9, *post*, p. 452.

[²] The words "approved by the Governor General in Council" were repealed by the Decentralization Act, 1914 (Act IV of 1914), s. 2, and the Schedule, Part I, *post*, p. 734 and are omitted.

[³] Ss. 19A and 19B were inserted by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben. Act 3 of 1909), s. 15 in Vol. III of this Code.

Power to make orders as to education of holder's children.

Penalty for disobedience.

Recovery of fines.

Power to appoint new Managers.

(Secs 21-24)

Every such new Manager shall have the same powers as if he had been originally appointed

21 Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code [1] Managers to be public servants

[2] 21A. All orders or proceedings of the Commissioner and of the Deputy Commissioner under this Act shall be subject to the supervision and control of the Board of Revenue, and the Board of Revenue may, if it thinks fit, revise, modify or reverse any such order or proceeding Control by Board of Revenue

[2] 21B. During the period of management,—

- (1) every suit or appeal by the holder shall be instituted in his name by the Manager, Suits and appeals by and against holder, during management.
- (2) in every pending suit or appeal in which the holder is plaintiff or defendant, the Manager shall be named as the representative of the holder for the purposes of the suit or appeal, and no application in any such suit or appeal shall be made to the Court on behalf of the holder except by the Manager,
- (3) no person other than the Manager shall be ordered to sue or be sued as next friend or guardian, or be named as guardian, of the holder, for a pending suit, and
- (4) the Court, upon application by the Manager or by any party to a suit, may order that the plaint or memorandum of appeal be amended so as to conform with the requirements of clause (1), or that the Manager be named as the representative of the holder as required by clause (2) of this section

22 No suit or other proceeding shall be maintained against any person in respect of anything done by him *bona fide* pursuant to this Act Bar of suits.

23 [3] [Subject to the provisions of section 21B] nothing in this Act precludes the Courts in Chota Nagpur having jurisdiction in suits relating to the succession to, or claims of maintenance from, any removable property brought under the operation of this Act from entertaining and disposing of such suits, Saving of jurisdiction of Courts in Chota Nagpur in respect of certain suits.

24. [Act not to affect powers conferred by Bengal Act II of 1869] *Rep by Ben Act III of 1909, s 18*

[1] Printed in General Acts, 1834-67, Ed 1899 p 243
 [2] Secs 21A and 21B were inserted by the Chota Nagpur Encumbered Estates (Amendment) Act 1909 (Ben Act 3 of 1909), s. 16 in Vol III of this Code
 [3] These words figures and letter in square brackets in s 23 were prefixed by the Chota Nagpur Encumbered Estates (Amendment) Act, 1909 (Ben Act 3 of 1909), s 17 in Vol III of this Code
 [4] The words "but in all such suits the Manager of such property shall be made a party" in s. 23 which were repealed by the same section, are omitted

ACT 9 of 1879
THE BURMA COAST LIGHTS ACT, 1879

CONTENTS.

PREAMBLE

Preliminary.

SECTION.

- 1 Short title
Commencement
Local Extent
- 2 Repeal
3. Interpretation-clause.

Coast-light Dues

- 4 Coast light dues payable in respect of vessels of fifty tons.
- 5 Dues when payable
- 6 Power to vary rates of dues
Proviso
- 7 Collection of dues, voucher to be given.
- 8 Master to report arrival
- 9 Tonnage of vessel chargeable with coast light dues how ascertained :
(a) if registered ;
(b) if not registered.
- 10 On refusal to pay dues or expenses, the Collector may distrain and sell.
- 11 No port-clearance to be granted until dues, etc , are paid
12. Master to specify on demand voyage on which vessel is bound
13. Penalty for evading payment of dues, etc

Determination of Disputes under Act.

- 14 Magistrate to decide disputes

Prosecutions under other Laws

- 15 Saving of prosecutions under other laws

Statement of Receipts and Expenditure.

- 16 Statement of Receipts and Expenditure to be published.
- 17 (*Repealed.*)

SCHEDULE

ACT 9 or 1879.[¹]

(THE BURMA COAST-LIGHTS ACT, 1879.)

, (23rd May, 1879.)

An Act to amend the law relating to Coast-lights in the Eastern part of the Bay of Bengal.

Whereas it is expedient to increase the coast-light dues paid under the provisions of Act No. 13 of 1867[²] (*an Act to provide for the establishment and maintenance of Coast-lights in the Eastern part of the Bay of Bengal*), and to render chargeable with coast-light dues certain vessels which are not now so chargeable; It is hereby enacted as follows.—

Preliminary.

1. This Act may be called the Burma Coast-lights Act, 1879:

Short title.

It shall come into force on the first day of July, 1879,

Commencement

And it shall extend to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners of British Burma[³] and the Andaman and Nicobar Islands.

Local extent.

But nothing herein contained shall apply to any vessel belonging to or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

2. Act No. 13 of 1867 (*to provide for the establishment and maintenance of Coast-lights in the Eastern part of the Bay of Bengal*) is hereby repealed.

Repeal

[¹] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1879, Part V, p. 42, and for Proceedings in Council, see *ibid*, Supplement, 1879, pp. 17, 48, 468, and 523.

LOCAL EXTENT.—This Act extends to Madras, Bombay, Bengal, Lower Burma and the Andaman and Nicobar Islands—see s. 1.

OTHER ENACTMENTS.—For a similar Act, authorising the levy of dues on vessels for the provision of lights on the coast of the Presidency of Madras, see the Madras Coast-lights Act, 1904 (9 of 1904).

For Parliamentary legislation affecting Indian light houses, see the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), ss. 670–675 (printed in the Collection of Statutes relating to India, Vol. II, Ed. 1913, p. 864, and the Merchant Shipping (Mercantile Marine Fund) Act, 1893 (61 & 62 Vict., c. 44—published in the Gazette of India, 1893, Part I, p. 965).

[²] Act 13 of 1867 has been repealed by s. 2 of this Act.

[³] This reference to "the territories administered by the Chief Commissioner of British Burma" must now be construed as referring to Lower Burma—see the Burma Laws Act, 1893 (13 of 1893), s. 7, printed in the Burma Code, Ed. 1910, p. 129.

(Secs. 3-6.)

But any appointment made under the said Act shall be deemed to have been made under this Act.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

“Customs-Collector.”

“Customs-Collector” means a Customs-Collector appointed under the Sea Customs Act, 1878,^[1] and includes any person appointed by the Local Government by name or in virtue of his office to discharge the functions of a Customs-Collector under this Act at any port: 8 of 18

“Vessel.”

“Vessel” includes anything made for the conveyance by water of human beings or of property:

“Master.”

“Master,” when used in relation to any vessel, means any person (except a Pilot or Harbour-Master) having, for the time being, the charge or control of such vessel:

“Voyage.”

“Voyage” means the whole distance between a vessel's place of departure and her final place of arrival; but the return of a vessel from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.

Coast-light Dues.

Coast-light dues payable in respect of vessels of fifty tons.

4. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called “coast-light dues,” shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pies per ton of burden:

Provided that such vessel sails from or enters during the course of, or at the termination of, any such voyage a port in British India, or takes in, or discharges, cargo off the coast of British India.

Dues when payable.

5. The said coast-light dues shall become due and payable—
- (a) in the case of a vessel clearing out of a port in British India upon any such voyage—previous to the grant of any port-clearance;
 - (b) in the case of a vessel entering a port in British India in the course, or at the termination, of any such voyage—immediately upon her entering such port:

Provided that the said dues shall not be levied more than once on any vessel in the course of the same voyage.

Power to vary rates of dues.

6. The Governor General in Council may from time to time, by notification in the Gazette of India, reduce or raise the rate of coast-light dues in respect of all vessels or any particular class of vessels:

[¹] Printed in the General Acts, 1868-78, Ed. 1909, p. 605.

(Secs 7-9)

Provided that such rate shall not in any case exceed the rate fixed by *Proviso* }
 section 4

7. The Customs Collector shall collect the coast light dues, and shall *Collection of dues voucher to be given*
 grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound

8 Within twenty four hours after the arrival within a port of any *Master to report arrival*
 vessel chargeable with coast light dues, the master of such vessel shall give notice of such arrival to the Customs Collector

9 In order to ascertain the tonnage of any vessel chargeable with *Tonnage of vessel chargeable with coast light dues how ascertained if registered*
 coast-light dues, the following rules shall be observed —

(a) If such vessel be a British registered vessel or vessel registered under Act No 10 of 1841^[1] or Act No 11 of 1850,^[2] or under any other law for the time being in force for the registration of vessels in India, the Customs Collector may require the owner or master of such vessel, or any other person having possession of her register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs Collector as to what is the true tonnage of the vessel in respect of which such coast light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs Collector may cause such vessel to be measured and the tonnage thereof to be ascertained, and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement

(b) If such vessel be not a British registered vessel or a vessel registered under Act No 10 of 1841^[1] or Act No 11 of 1850,^[2] or under any other law for the time being in force for the registration of vessels in India, and the owner or master thereof fails to satisfy the Customs Collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Customs Collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained, and in such case the owner or master of such vessel shall be liable to pay the expenses of such measurement

[1] The Indian Registration of Ships Act, 1841. It is printed in the General Acts, 1834-67 Ed 1900, p. 21

[2] The Indian Registration of Ships Act (1841) Amendment Act, 1850, *see id d*, p. 66

(Sec. 17.)

2. A voyage to or from any port in British Burma [¹]
except voyages to or from Maulmein,
from or to Mergui.

3. A voyage to or from Rangoon and
any port in British Burma [¹] west of the
longitude of Rangoon—

4. A voyage to or from any port in
British Burma [¹] other than Tavoy and
Mergui—

from or to any other port in British
Burma; [¹]

from or to Tavoy or Mergui, or to or from
Tavoy;

from or to any place east of the longitude
of Mergui;

from or to any port in the Andaman and
Nicobar Islands.

[¹] These references to "British Burma" must now be construed as referring to Lower Burma—see the Burma Laws Act, 1898 (13 of 1898), s. 7, printed in the Burma Code, Ed. 1910, p. 129.

ACT 7 OF 1881.

[THE BENGAL CESS (AMENDMENT NO 1) ACT, 1881][']

(21st January, 1881)

An Act to amend Bengal Act No. 9 of 1880 (the Cess Act,
1880) [']

Whereas it is expedient to amend Bengal Act No. 9 of 1880 (the Cess Preamble Act, 1880),['] It is hereby enacted as follows —

I. In the said Act, after section 63, the following sections shall be inserted and shall be deemed to have been so inserted on and from the date on which such Act came into force —

Amendment
of Bengal
Act 9 of
1880 .

64A, 64B (Printed as part of Ben Act 9 of 1880, in Vol II of this Code)

['] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), Sch I—see post, p. 694

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1881 Part V, p. 5, and for Proceedings in Council see *ibid*, 1881, Supplement, pp. 15, 20-97

LOCAL EXTENT.—Since this Act merely makes textual amendments in Ben Act 9 of 1880, and contains no 'local extent' clause, its local extent must be taken to be the same as that of the Act of 1880 (see foot note to that Act in Vol II of this Code). For the reasons mentioned above, the Act must be taken to be in force in those tracts in the Sonthal Parganas in which Bengal Act 9 of 1880 has been declared in force, but its operation is barred in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913) post, and the tracts in the Sonthal Parganas in which Bengal Act 9 of 1880 is not in force, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (*) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899) s. 3, post

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874) s. 3, to be in force in the districts of Hazaribagh, Ranchi, Palamau and Manikpur, and Pargana Dhalbhum in the district of Singhbhum in the Chota Nagpur Division—see Vol IV, Part III

['] Printed in Vol II of this Code.

ACT 25 OF 1881

(THE BANKI LAWS ACT, 1881) [1]

(27th October, 1881)

An Act to amend the law in force in the Mahal of Banki.

Whereas it has been determined to annex the territory comprised in Preamble the mahal of Banki to the district of Cuttack

And whereas the said territory forms portion of a scheduled district under the Scheduled Districts Act, 1874[2]

And whereas it is expedient that the law in force in the said territory should, on such annexation, be the same as the law in force in the district of Cuttack, and that the said territory should cease to be a portion of a scheduled district,

It is hereby enacted as follows —

1. This Act may be called the Banki Laws Act, 1881

Short title.

2 All enactments which shall, on the first day of April, 1882, be in force in the district of Cuttack and not in the said territory shall be deemed to come into force in the said territory on that day

Laws of Cuttack to apply

And all enactments which shall on that day be in force in the said territory and not in the district of Cuttack shall be deemed to be repealed on and from that day in the said territory

Other law repealed

3. [Pending proceedings] Rep by the Repealing and Amending Act, 1891 (12 of 1891)

4 On and from the said first day of April, 1882, the said territory shall cease to be a portion of a scheduled district, and in Part III of the first schedule to the said Scheduled Districts Act, 1874, for the words "Mahals of Angul and Banki," the words "Mahal of Angul" shall be substituted,

Territory to cease to be a scheduled district.

[3]

[1] LEGISLATIVE PAPERS—For Statement of Objects and Reasons see Gazette of India, 1881, Part V, p. 991, and for Proceedings in Council, see *ibid*, Supplement, 1881, pp. 637, 617 and 1214

LOCAL EXTENT—This Act extends only to the mahal of Banki in the District of Cuttack—see the preamble.

[2] Printed in the General Acts 1868-73 Fd 1869 p. 4-0

[3] The remainder of a. 4 (relating to the repeal of references to Banki in Regulations 12 and 13 of 1865 as 111 of 1816) was repealed by the Repealing and Amending Act 1891 (12 of 1891), and is omitted

ACT 5 OF 1884.

[THE CHOTA NAGPUR ENCUMBERED ESTATES (AMENDMENT) ACT, 1884.][¹]

(26th February, 1884.)²

An Act to amend the Chota Nagpur Encumbered Estates Act, 1876.[³]

Whereas it is expedient to amend the Chota Nagpur Encumbered Estates Act, 1876; [²] It is hereby enacted as follows:—

1. "Section" in this Act means a section of the Chota Nagpur Encumbered Estates Act, 1876.[³]

Meaning of "section".

2. To section 2 the following shall be added, namely:—

(Printed *ante*, p. 425.)

Addition to section 2 of Act 6 of 1876.

3. In section 3, for the words "On such publication" the words "On the publication of an order under section 2" shall be substituted.

Amendment of section 3.

4. To section 4 the following shall be added, namely:—

(Printed *ante*, p. 427.)

Addition to section 4.

5. In section 7, for the words "nine months" the words "six months" shall be substituted.

Amendment of section 7.

6. (1) In section 12, for the first clause the following shall be substituted:—

Amendment of section 12.

(Printed *ante*, p. 431.)

(2) In the same section, for the second clause the following shall be substituted, namely:—

(Printed *ante*, p. 431.)

(3) After the second clause of the same section the following shall be inserted, namely:—

(Printed *ante*, p. 431.)

[¹] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), *see post*, p. 694.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1883, Part V, p. 3 and for Proceedings in Council, *see ibid*, supplement, 1883, pp. 41, 45, Supplement, 1884, pp. 307, 373.

LOCAL EXTENT.—The local extent of this Act is the same as that of the Chota Nagpur Encumbered Estates Act, 1876, as to which *see* *foot note* [¹] p. 423, *ante*.

[²] Printed *ante*, p. 423.

(Secs. 7-10.)

Amendment of section 17. **7.** In section 17, for the words "not exceeding twenty years absolute" the words "or in perpetuity" shall be substituted.

Amendment of section 18. **8.** In section 18—

* * * * *

(b) after the words "as may appear expedient" the following shall be inserted, namely:—"or by borrowing money from the Government at such rate of interest as appears reasonable to the Local Government;" and

(c) for the last clause the following shall be substituted, namely:—

(Printed *ante*, p. 435.)

Addition to section 19. **9.** In section 19, after clause (a), the following shall be inserted, namely:—

(aa) (Printed *ante*, p. 436.)

10. [Repeal of Act 12 of 1877.] *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

[¹] Clause (a) of s. 8, which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

ACT 8 of 1835
(THE BENGAL TENANCY ACT, 1835)

CONTENTS

CHAPTER I

PRELIMINARY.

SECTION

- 1 Short title
- Commencement
- Local extent
2. Repeal
- 3 Definitions.

CHAPTER II

CLASSES OF TENANTS

- 4 Classes of Tenants
- 5 Meaning of "tenure holder" and "raiyat."

CHAPTER III

TENURE HOLDERS.

Enhancement of rent

6. Tenure held since Permanent Settlement liable to enhancement only in certain cases.
- 7 Limits of enhancement of rent of tenures
- 8 Power to order gradual enhancement
9. Rent once enhanced may not be altered for fifteen years

Other incidents of tenures

- 10 Permanent tenure holder not liable to ejectment
11. Transfer and transmission of permanent tenure
12. Voluntary transfer of permanent tenure
- 13 Transfer of permanent tenure by sale in execution of decree other than decree for rent.
- 14 (*Repealed*)
15. Succession to permanent tenure
- 16 Bar to recovery of rent, pending notice of succession.
- 17 Transfer of, and succession to, share in permanent tenure

CHAPTER IV.

RAIYATS HOLDING AT FIXED RATES.

18. Incidents of holding at fixed rates.

CHAPTER IVA.

PROVISIONS AS TO TRANSFERS OF TENURES AND HOLDINGS AND LANDLORD'S FEES.

SECTION.

- 18A. Saving as to statements in instruments of transfer where landlord no party.
- 18B. Saving as to acceptance of landlord's fees.
- 18C. Forfeiture of unclaimed landlord's fees.

CHAPTER V.

OCCUPANCY-RAIYATS.

General.

- 19. Continuance of existing occupancy-rights.
- 20. Definition of "*settled raiyat*."
- 21. *Settled raiyats* to have occupancy-rights.
- 22. Effect of acquisition of occupancy-right by landlord.

Incidents of occupancy-right.

- 23. Rights of *raiya*t in respect of use of land.
- 24. Obligation of *raiya*t to pay rent.
- 25. Protection from eviction except on specified grounds.
- 26. Devolution of occupancy-right on death.

Enhancement of rent.

- 27. Presumption as to fair and equitable rent.
- 28. Restriction on enhancement of money-rents.
- 29. Enhancement of rent by contract.
- 30. Enhancement of rent by suit.
- 31. Rules as to enhancement on ground of prevailing rate.
- 31A. What may be taken in certain districts to be the "*prevailing rate*."
- 31B. Limit to enhancement of prevailing rate.
- 32. Rules as to enhancement on ground of rise in prices.
- 33. Rules as to enhancement on ground of landlord's improvement.
- 34. Rules as to enhancement on ground of increase in productive powers due to fluvial action.
- 35. Enhancement by suit to be fair and equitable.
- 36. Power to order progressive enhancement.
- 37. Limitation of right to bring successive enhancement-suits.

Reduction of rent.

- 38. Reduction of rent.

Price-lists.

- 39. Price-lists of staple food-crops.

Commutation.

- 40. Commutation of rent payable in kind.
- 40A. Period for which commuted rents are to remain unaltered.

CHAPTER VI.

NON-OCCUPANCY RAIYATS

- 41. Application of Chapter.
- 42. Initial rent of non-occupancy-*raiya*t.
- 43. Conditions of enhancement of rent.

Section

- 44 Grounds on which non-occupancy raiyat may be ejected
- 45 (*Repealed*)
- 46 Conditions of ejectment on ground of refusal to agree to enhancement.
- 47 Explanation of admitted to occupation.

CHAPTER VII

UNDER RAITATS

- 48 Limit of rent recoverable from under-raiyats
- 49 Restriction on ejectment of under raiyats

CHAPTER VIII

GENERAL PROVISIONS AS TO RENT

Rules and presumptions as to amount of rent

- 50 Rules and presumptions as to fixity of rent
- 51 Presumption as to amount of rent and conditions of holding

Alteration of rent on alteration of area.

- 52. Alteration of rent in respect of alteration in area.

Payment of rent.

- 53 Instalments of rent
- 54 Time and place for payment of rent
- 55 Appropriation of payments.

Receipts and accounts

- 56 Tenant making payment to his landlord entitled to a receipt.
- 57 Tenant entitled to full discharge or statement of account at close of year
- 58 Penalties and fine for withholding receipts and statements of account and failing to keep counterparts.
- 59 Local Government to prepare forms of receipt and account.
- 60 Effect of receipt by registered proprietor, manager or mortgagee.

Deposit of rent.

- 61 Application to deposit rent in Court
- 62 Receipt granted by Court for rent deposited to be a valid acquittance.
- 63 Notification of receipt of deposit
- 64 Payment or refund of deposit

Arrears of rent

- 65 Liability to sale for arrears in case of permanent tenure, holding at fixed rates or occupancy holding
- 66 Ejectment for arrears in other cases.
- 67 Interest on arrears.
- 68 Power to award damages on rent withheld without reasonable cause, or to defendant improperly sued for rent.

Produce rents

- 69 Order for appraising or dividing produce
- 70 Procedure where officer appointed
- 71 Rights and liabilities as to possession of crop.

Liability for rent on change of landlord or after transfer of tenure or holding.

SECTION.

72. Tenant not liable to transferee of landlord's interests for rent paid to former landlord without notice of the transfer.
 73. Liability for rent after transfer of occupancy-holding.

Illegal cesses, etc.

74. *Abwab*, etc., illegal.
 75. Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

CHAPTER IX.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

Improvements.

76. Definition of "improvement."
 77. Right to make improvements in case of holding at fixed rates and occupancy-holding.
 78. Collector to decide question as to right to make improvement, etc.
 79. Right to make improvements in case of non-occupancy-holding.
 80. Registration of landlord's improvement.
 81. Application to record evidence as to improvement.
 82. Compensation for *rai-yats'* improvements.
 83. Principle on which compensation is to be estimated.

Acquisition of land for building and other purposes.

84. Acquisition of land for building and other purposes.

Sub-letting.

85. Restrictions on sub-letting.

Surrender and abandonment.

86. Surrender.
 87. Abandonment.

Sub-division of tenancy.

88. Division of tenancy not binding on landlord without his consent.

Ejectment.

89. No ejectment except in execution of decree.

Measurements.

90. Landlord's right to measure land.
 91. Power for Court to order tenant to attend and point out boundaries.
 92. Standard of measurement.

Managers.

93. Power to call upon co-owners to show cause why they should not appoint a common manager.
 94. Power to order them to appoint a manager, if cause is not shown.
 95. Power to appoint manager if order is not obeyed.
 96. Power to nominate person to act in all cases under clause (b) of last section.
 97. The Court of Wards Act, 1879, applicable to management by Court of Wards.
 98. Provisions applicable to manager.
 99. Power to restore management to co-owners.
 100. Power to make rules.

CHAPTER X

RECORD OF RIGHTS AND SETTLEMENT OF RENTS

Part I—Record of Rights

SECTION

- 101 Power to order survey and preparation of record-of rights
- 102 Particulars to be recorded
- 102A Power to order survey and preparation of record-of rights as to water
- 103 Power for Revenue-officer to record particulars on application of proprietor, tenure-holder or large proportion of *rayats*
- 103A Preliminary publication, amendment and final publication of record-of rights
- 103B Presumption as to final publication and correctness of record-of rights.

Part II—Settlement of Rents, preparation of Settlement Rent Roll and disposal of objections, in cases where a settlement of land revenue is being or is about to be made

- 104 Settlement of rents and preparation of Settlement Rent Roll when to be under taken by Revenue-officer
- 104A Procedure for settlement of rents and preparation of Settlement Rent Roll under this Part
- 104B (1) Contents of Table of Rates
(2) Local publication of Table
(3) Revenue officer to deal with objections
(4) Table to be submitted to superior Revenue authority
- 104C
- 104D in framing Table of Rates and settling rents
- 104F ment of Settlement Rent Roll
- 104F Roll, and incorporation of the same in the
- 104G Appeal to, and revision by, superior Revenue authorities.
- 104H Jurisdiction of Civil Courts in matters relating to rent
- 104J Presumptions as to rents settled under sections 104A to 104G

Part III—Settlement of Rents and decision of disputes in cases where a settlement of land revenue is not being or is not about to be made

- 105 Settlement of rents by Revenue-officer in cases where a settlement of land revenue is not being or is not about to be made.
- 105A Decision of question arising during the course of settlements of rents under this Part.
- 106 Institution of suit before a Revenue-officer
- 107 Procedure to be adopted by Revenue-officer
- 108 Revision by Revenue-officer
- 108A Correction by Revenue-officer of mistakes in record-of rights.
- 109 Bar to jurisdiction of Civil Courts
- 109A Appeals from decisions of Revenue-officers.

Part IV—Supplemental Provisions

- 109B Power of Revenue-officer to give effect to agreement or compromise.
- 109C Power of Revenue-officer to settle rent on agreement.
- Note of decisions on record
- 109D Note of decisions on record
- 110 Date from which settled rent takes effect.
- 111 Stay of proceedings in Civil Court during preparation of record-of rights.
- 111A Limitation of jurisdiction of Civil Courts in matters, other than rent relating to record-of rights.
- 111B Stay of suits in which certain issues arise.
- 112 Power to authorise special settlement in special cases.
- 113 Period for which rents as settled are to remain unaltered
- 114 Expenses of proceedings under Chapter

SECTION.

115. Presumption as to fixity of rent not to apply where record-of-rights has been prepared.
 115A. Demarcation of village boundaries.

CHAPTER XI.

NON-ACCRUAL OF OCCUPANCY AND NON-OCCUPANCY-RIGHTS, AND RECORD OF PROPRIETORS' PRIVATE LANDS.

116. Saving as to certain lands.
 117. Power for Government to order survey and record of proprietor's private lands.
 118. Power for Revenue-officer to record private land on application of proprietor or tenant.
 119. Procedure for recording private land.
 120. Rules for determination of proprietor's private land.

CHAPTER XII.

DISTRRAINT.

121. Cases in which an application for distraint may be made.
 122. Form of application.
 123. Procedure on receipt of application.
 124. Execution of order for distraint.
 125. Service of demand and account.
 126. Right to reap, etc., produce.
 127. Sale proclamation to be issued unless demand is satisfied.
 128. Place of sale.
 129. When produce may be sold standing.
 130. Manner of sale.
 131. Postponement of sale.
 132. Payment of purchase-money.
 133. Certificate to be given to purchaser.
 134. Proceeds of sale how to be applied.
 135. Certain persons may not purchase.
 136. Procedure where demand is paid before the sale.
 137. Amount paid by under-tenant for his lessor may be deducted from rent.
 138. Conflict between rights of superior and inferior landlords.
 139. Distraint of property which is under attachment.
 140. Suit for compensation for wrongful distraint.
 141. Power for Local Government to authorise distraint in certain cases.
 142. Power for High Court to make rules.

CHAPTER XIII.

JUDICIAL PROCEDURE.

143. Power to modify Civil Procedure Code in its application to landlord and tenant suits.
 144. Jurisdiction in proceedings under Act.
 145. *Naibs* or *gumashtas* to be recognized agents.
 146. Special register of suits.
 147. Successive rent-suits.
 147A. Compromise of suits between landlord and tenant.
 147B. Regard to be had by Civil Courts to entries in record-of-rights.
 148. Procedure in rent-suits.
 148A. Suits for arrears of rent by co-sharer landlords.
 149. Payment into Court of money admitted to be due to third person.
 150. Payment into Court of money admitted to be due to landlord.
 151. Provisions as to payment of portion of money.

152. Court to grant receipt
153 Appeals in rent-suits
153A Deposit on application to set aside *ex parte* decree
154 Date from which decree for enhancement takes effect
155 Relief against forfeitures
156 Rights of ejected *rayats* in respect of crops and land prepared for sowing.
157 Power for Court to fix fair rent as alternative to ejectment
158 Application to determine incidents of tenancy.

158A Recovery of arrears by the certificate procedure in certain areas

- 158B Passing of tenure or holding sold in execution of decree
- 159 General powers of purchaser as to avoidance of incumbrances
- 160 Protected interests
- 161 Meaning of "incumbrance" and "registered and notified incumbrance."
- 162 Application for sale of tenuro or holding
- 163 Order of attachment and proclamation of sale to be issued simultaneously
- 164 Sale of tenure or holding subject to registered and notified incumbrances and effect thereof
- 165 Sale of tenuro or holding with power to avoid all incumbrances, and effect thereof
- 166 Sale of occupancy holding with power to avoid all incumbrances, and effect thereof
- 167 Procedure for annulling incumbrances under the foregoing sections
- 168 Power to direct that occupancy holding be dealt with under foregoing sections as tenures
- 169 Rules for disposal of the sale-proceeds
- 170 Tenure or holding to be released from attachment only on payment into Court of amount of decree, with costs, or on confession of satisfaction by decree-holder.
- 171 Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding
- 172 " - - - - - may deduct from rent.
- 173 " " " rent-debtor may not.
- 174 " " " set aside sale
- 175 " " " eating incumbrances.
- 176 Notification of incumbrances to landlord
- 177 Power to create incumbrances not extended

178. Restrictions on exclusion of Act by agreement.
179. Permanent *awladars* leases.
180. *Urbandi*, *char* and *diara* lands
181. Saving as to service-tenures
182. Homesteads
183. Saving of custom

(Secs. 1-2.)

the administration of the Lieutenant-Governor of Bengal;[¹] It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bengal Tenancy Act, 1885.

Short title.
Commence-
ment.

(2) [*It shall come into force on such date*]^[2] (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf.]

Local extent.

(3) It shall extend by its own operation to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal,^[1] except

[the town of Calcutta,]

[³] [any area constituted a Municipality under the provisions of the Bengal Municipal Act, 1884,^[4] or part thereof, and specified in a notification^[5] in this behalf by the Local Government,]

the Division of Orissa, and

the scheduled Districts specified in the third Part^[6] of the First Schedule of the Scheduled Districts Act, 1874;

14 of

and the Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, extend the whole or any portion of this Act to the Division of Orissa or any part thereof.

[¹] [*Explanation.*—The words “the town of Calcutta” mean, subject to the exclusion Ben. A or inclusion of any local area by notification under s. 637 of the Calcutta Municipal of 1899 of 1899 Act, 1899, the area described in Schedule 1 to that Act.]

Repeal.

2. (1) The enactments specified in Schedule I hereto annexed are repealed in the territories to which this Act extends by its own operation.

[⁸] (2) [When this Act is extended to the Division of Orissa or any part thereof, such of those enactments as are in force in that Division or

[¹] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[²] See foot-note headed “Commencement,” ante, p. 461.

[³] These words in square brackets in s. 1 (3) were inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 3 (1).

[⁴] Printed in Vol. II of this Code.

[⁵] As to the effect of such notifications, see s. 19 (2), post, p. 472.

[⁶] Printed in General Acts, 1868-78, Ed. 1909, p. 446.

[⁷] This *Explanation* was added to s. 1 (3) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 3 (2), in Vol. III of this Code.

[⁸] This has become nugatory—see the Orissa Tenancy Act, 1913 (B. and O. Act 2 of 1913).

(Sec 3)

part, or, where a portion only of this Act is so extended, so much of them as is inconsistent with that portion shall be repealed in that Division or part]

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof

(4) The repeal of any enactment by this Act shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "estate" means land included under one entry in any of the Definitions, general registers of revenue paying lands and revenue free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government *khass mahals* and revenue-free lands not entered in any register,

(2) "proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate;

(3) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person,

(4) "landlord" means a person immediately under whom a tenant holds, and includes the Government,

(5) "rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant

in sections 53 to 68, both inclusive, sections 72 to 75, both inclusive, Chapter XII, [1] [Chapter XIV] and Schedule III of this Act, "rent" includes also money recoverable under any enactment for the time being in force as if it was rent,

(6) "pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery",

(7) "tenure" means the interest of a tenure-holder or an under-tenure-holder,

(8) "permanent tenure" means a tenure which is heritable and which is not held for a limited time,

[1] The word and figures ' Chapter XIV' in clause (5) of s. 3 were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907) s. 4 (2) in Vol. III of this Code.

(Sec. 3.)

(9) "holding" means a parcel or parcels of land held by a *raiyat* and forming the subject of a separate tenancy;

[¹] (10) "village" means the area defined, surveyed and recorded as a distinct and separate village in—

(a) the general land-revenue survey which has been made of the Province of Bengal, or

(b) any survey made by the Government which may be adopted by notification in the Calcutta Gazette as defining villages for the purposes of this clause in any specified area;

and, where a survey has not been made by, or under the authority of, the Government, such area as the Collector may, with the sanction of the Board of Revenue, by general or special order, [²] declare to constitute a village.

(11) "Agricultural year" means, where the Bengali year prevails, the year commencing on the first day of *Baisakh*, [³] where the *Fasli* or *Aml* year prevails, the year commencing on the first day of *Asin*, [⁴] and, where any other year prevails for agricultural purposes, that year;

(12) "Permanent Settlement" means the Permanent Settlement of [*Bengal*,] Bihar and Orissa, made in the year 1793;

(13) "succession" includes both intestate and testamentary succession;

(14) "signed" includes "marked," when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to;

(15) "prescribed" means prescribed from time to time by the Local Government by notification in the official Gazette;

(16) "Collector" means the Collector of a district or any other officer appointed [⁵] by the Local Government to discharge any of the functions of a Collector under this Act;

(17) "Revenue-officer," in any provision of this Act, includes any officer whom the Local Government may appoint, [⁶] by name or by virtue

[¹] It was substituted for the original clause (10) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 4 (2), in Vol. III of this Code.

[²] For a list of orders made under the last paragraph of s. 3 (10), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Pt. IV.

[³] The month of *Baisakh* corresponds with the last part of April and the first part of May.

[⁴] The month of *Asin* corresponds with the last part of September and the first part of October.

[⁵] For a list of orders made under s. 3 (16), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[⁶] For an order made under s. 3 (17), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

(Secs. 4-5.)

of his office, to discharge any of the functions of a Revenue officer under that provision;

(18) "registered" means registered under any Act^[1] for the time being in force for the registration of documents ^[2]

CHAPTER II.

CLASSES OF TENANTS.

4. There shall be, for the purposes of this Act, the following classes of Classes of tenants. tenants (namely) :—

- (1) tenure-holders, including under-tenure-holders,
- (2) *raiyats*, and
- (3) under-*raiyats*, that is to say, tenants holding, whether immediately or mediately, under *raiyats*;

and the following classes of *raiyats* (namely) —

- (a) *raiyats* holding at fixed rates, which expression means *raiyats* holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity,
- (b) occupancy-*raiyats*, that is to say, *raiyats* having a right of occupancy in the land held by them, and
- (c) non-occupancy-*raiyats*, that is to say, *raiyats* not having such a right of occupancy.

5. (1) "Tenure-holder" means primarily a person who has acquired Meaning of "tenure holder" and "rakyat." from a proprietor or from another tenure-holder a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it, and includes also the successors in interest of persons who have acquired such a right.

(2) "*Rakyat*" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of

[1] See now the Indian Registration Act, 1909 (16 of 1909), in General Acts, 1904/07, Ed 1909, p. 560.

[2] Further definitions are given in the following sections, namely :—

- a. 5 ("tenure holder" and "*rakyat*");
- a. 20 ("settled *rakyat*");
- a. 41 ("non-occupancy *rakyat*");
- a. 47 ("admitted to occupation");
- a. 76 ("improvement");
- a. 160 ("protected interests");
- a. 161 ("incumbrance" and "registered and notified incumbrance")

(Secs. 6-7.)

his family or by hired servants, or with the aid of partners, and includes also the successors in interest of persons who have acquired such a right.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(3) A person shall not be deemed to be a *raiyat* unless he holds land either immediately under a proprietor or immediately under a tenure-holder.

(4) In determining whether a tenant is a tenure-holder or a *raiyat*, the Court shall have regard to—

(a) local custom; and

(b) the purpose for which the right of tenancy was originally acquired.

(5) Where the area held by a tenant exceeds one hundred standard *bighas*, the tenant shall be presumed to be a tenure-holder until the contrary is shown.

CHAPTER III.

TENURE-HOLDERS.

Enhancement of rent.

Tenure held since Permanent Settlement liable to enhancement only in certain cases.

6. Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

(a) that the landlord under whom it is held is entitled to enhance the rent thereof either by local custom or by the conditions under which the tenure is held, or

(b) that the tenure-holder, by receiving reductions of his rent, otherwise than on account of a diminution of the area of the tenure, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Limits of enhancement of rent of tenures.

7. (1) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

(Secs. 8-10.)

(2) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

(3) In determining what is fair and equitable, the Court shall not leave to the tenure-holder as profit less than 10 *per centum* of the balance which remains after deducting from the gross rents payable to him the expenses of collecting them and shall have regard to—

(a) the circumstances under which the tenure was created, for instance, whether the land comprised in the tenure, or a great portion of it, was first brought under cultivation by the agency or at the expense of the tenure-holder or his predecessors in interest, whether any fine or premium was paid on the creation of the tenure, and whether the tenure was originally created at a specially low rent for the purpose of reclamation; and

(b) the improvements, if any, made by the tenure-holder or his predecessors in interest.

(4) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

8. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

9. When the rent of a tenure-holder has been enhanced by the Court or by contract, it shall not be again enhanced by the Court during the fifteen years next following the date on which it has been so enhanced.

Power to order gradual enhancement.
Rent once enhanced may not be altered for fifteen years.

Other incidents of tenures.

10. A holder of a permanent tenure shall not be ejected by his landlord except on the ground that he has broken a condition on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected:

Permanent tenure holder not liable to ejectment.

Provided that where the contract is made after the commencement of this Act, the condition is consistent with the provisions of this Act.

(Secs. 11-12.)

Transfer and transmission of permanent tenure.

11. Every permanent tenure shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as other immovable property.

Voluntary transfer of permanent tenure.

[¹]12. (1) A transfer of a permanent tenure by sale, gift or mortgage (other than a transfer by a sale in execution of a decree or by summary sale under any law relating to *patni* or other tenures) can be made only by a registered instrument.

(2) A registering officer shall not register any instrument purporting or operating to transfer by sale, gift or [²][usufructuary] mortgage a permanent tenure unless there is paid to him, in addition to any fees payable under the Act for the time being in force for the registration of documents, a process-fee of the prescribed amount and a fee (hereinafter called "the landlord's fee") of the following amount, namely:—

(a) when rent is payable in respect of the tenure, a fee of two *per centum* on the annual rent of the tenure: provided that no such fee shall be less than one rupee or more than one hundred rupees; and

(b) when rent is not payable in respect of the tenure, a fee of two rupees;

[³][together with the costs necessary for the transmission of the landlord's fee to the landlord.]

(3) When the registration of any such instrument is complete, the registering officer shall send to the Collector the landlord's fee [⁴][the costs necessary for the transmission of the same] and a notice of the transfer and registration in the prescribed form, and the Collector shall cause the fee to be [⁵][transmitted] to, and the notice to be served on, the landlord [⁶][named in the notice], in the prescribed manner.

[¹] As to the validation of certain transfers made under s. 12, 13, 17 or 18, see the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben. Act 1 of 1903), s. 1, in Vol. III of this Code; and as to payment of fees under those sections, see *ibid*, s. 2.

[²] This word "usufructuary" in s. 12 (2) was inserted by the Bengal Tenancy (Amendment) Act, 1886 (8 of 1886), s. 1, *post*, p. 570.

[³] These words in square brackets were added to s. 12 (2), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (1), in Vol. III of this Code.

[⁴] The words "the costs necessary for the transmission of the same," in s. 12 (3), were inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (i), in Vol. III of this Code.

[⁵] This word "transmitted" in s. 12 (3) was substituted for the word "paid," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (ii), in Vol. III of this Code.

[⁶] The words "named in the notice" in s. 12 (3) were inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (iii), in Vol. III of this Code.

(Secs. 13-14.)

[¹]13. (1) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, [²][or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed,] the Court shall, before confirming the sale under section 312[³] of the Code of Civil Procedure, [⁴][or making a decree or order absolute for the foreclosure,] require the purchaser [⁵][or mortgagee] to pay into Court the landlord's fee prescribed by the last foregoing section, [⁶][together with the costs necessary for its transmission to the landlord,] and such further fee for service of notice of the sale [⁷][or final foreclosure] on the landlord as may be prescribed.

Transfer of permanent tenure by sale in execution of decree other than decree for rent

(2) When the sale has been confirmed, [⁸][or the decree or order absolute for the foreclosure has been made,] the Court shall send to the Collector the landlord's fee, [⁹][the costs necessary for the transmission of the same,] and a notice of the sale [¹⁰][or final foreclosure] in the prescribed form, and the Collector shall cause the fee to be [¹¹][transmitted] to, and the notice to be served on, the landlord [¹²][named in the notice], in the prescribed manner

14. (Transfer of permanent tenure by sale in execution of decree for rent.) Rep. in Western Bengal by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 2 and in Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 2.

[¹] As to the validation of certain transfers made under ss. 12, 13, 17 or 18, see the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben. Act 1 of 1903), s. 1, in those sections, see *ibid.*, s. 2.

[²] These words in square brackets in s. 13 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 2, and in Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 2.

[³] These words in square brackets in s. 13 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 2, and in Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 2.

[⁴] These words in square brackets in s. 13 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 2, and in Eastern Bengal by the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908 (E. B. & A. Act 1 of 1908), s. 2.

[⁵] The words "the costs necessary for the transmission of the same," in s. 13 (2), were inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (i) in Vol. III of this Code.

[⁶] These words "or final foreclosure" in s. 13 (2) were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (ii), in Vol. III of this Code.

[⁷] This word "transmitted" in s. 13 (2) was substituted for the word "paid," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (iii), in Vol. III of this Code.

[⁸] The words "named in the notice" in s. 13 (2) were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 5 (2) (iv), in Vol. III of this Code.

(Secs. 15-18.)

Succession to permanent tenure.

[¹]15. When a succession to a permanent tenure takes place, the person succeeding shall give notice of the succession to the Collector in the prescribed form, and shall pay to the Collector the prescribed fee for the service of the notice on the landlord and the landlord's fee prescribed by section 12, [²][together with the costs necessary for its transmission to the landlord], and the Collector shall cause the landlord's fee to be [³][transmitted] to, and the notice to be served on, the landlord [⁴][named in the notice], in the prescribed manner.

Bar to recovery of rent, pending notice of succession.

16. A person becoming entitled to a permanent tenure by succession shall not be entitled to recover by suit, distraint or other proceeding any rent payable to him as the holder of the tenure, until the Collector has received the notice, [⁵][fees and costs] referred to in the last foregoing section.

Transfer of, and succession to, share in permanent tenure.

[⁶]17. Subject to the provisions of section 88, the foregoing sections shall apply to the transfer of, or succession to, a share in a permanent tenure.

CHAPTER IV.

RAIYATS HOLDING AT FIXED RATES.

Incidents of holding at fixed rates.

[¹], [⁶]18. A *raiya*t holding at a rent, or rate of rent, fixed in perpetuity—

- (a) shall be subject to the same provisions with respect to the transfer of, and succession to, his holding as the holder of a permanent tenure, and
- (b) shall not be ejected by his landlord, except on the ground that he has broken a condition consistent with this Act, and on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected.

[¹] As to payment of fees under ss. 15 and 18 to the Registrar of Mutations under the Land Records Maintenance Act, 1895 (Ben. Act 3 of 1895), see s. 20 of that Act, in Vol. III of this Code.

[²] The words "together with the costs necessary for its transmission to the landlord," in s. 15, were inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 6 (1), in Vol. III of this Code.

For further provisions as to landlords' fees, see Chap. IVA, *post*, p. 471.

[³] This word "transmitted," in s. 15, was substituted for the word "paid," by the Bengal Tenancy Act, 1907 (Ben. Act 1 of 1907), s. 6 (2) (i), in Vol. III of this Code.

[⁴] The words "named in the notice," in s. 15, were inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 6 (2) (ii), in Vol. III of this Code.

[⁵] The words "fees and costs," in s. 16, were substituted for the words "and fees," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 7, in Vol. III of this Code.

[⁶] As to the validation of transfers made under s. 17, or 18, see foot-note [¹] on p. 469, *ante*.

As to the forfeiture of fees deposited under ss. 12, 13, 15, 17 and 18 (a), see S. 18C, *post*, p. 471, and s. 189 (2), *post*, p. 560.

(Secs 18A-19)

[¹] CHAPTER IVA.PROVISIONS AS TO TRANSFERS OF TENURES AND HOLDINGS AND
LANDLORD'S FEES.

18A. Nothing contained in any instrument of transfer to which the landlord is not a party shall be evidence against the landlord of the permanence, amount or fixity of rent, area, transferability or any incident of any tenure or holding referred to in such instrument

Saving as to statements in instruments of transfer where landlord no party

18B. The acceptance by a landlord of any landlord's fee payable under Chapter III or Chapter IV in respect of any tenure or holding shall not operate—

Saving as to acceptance of landlord's fees

(a) as an admission as to the permanence, amount or fixity of rent, area, transferability or any incident of such tenure or holding, or

(b) as an express consent under section 88 to the division of such tenure or holding, or to the distribution of the rent payable in respect thereof

18C. All landlord's fees paid under Chapter III or Chapter IV which are held in deposit on or after the commencement of the Bengal Tenancy (Amendment) Act, 1907,^[2] may, unless accepted or claimed by the landlord within three years from such commencement or from the date of the service of the notice prescribed in section 12, section 13 or section 15 (as the case may be), whichever is later, be forfeited to the Government

Forfeiture of unclaimed landlord's fees
Ben Act 1 of 1907

[²] CHAPTER V

OCCUPANCY RAIYATS

General

[¹]19. (1) Every *rayyat* who, immediately before the commencement of this Act^[5] or the Bengal Tenancy (Amendment) Act, 1907,^[2] has, by the operation of any enactment, by custom, or otherwise, a right of occupancy in any land, shall, when this Act^[5] or the Bengal Tenancy

Continuance of existing occupancy rights
Ben Act 1 of 1907
Ben Act 1 of 1907

[¹] It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act 1 of 1907), s 8, in Vol III of this Code

[²] Ben Act 1 of 1907 is printed in Vol III of this Code

[³] Chapter V does not confer a right of occupancy in certain lands—see s 115, post, p 526

[⁴] The original s 19 was renumbered 19 (1) by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act 1 of 1907), s 9 (1), in Vol III of this Code

[⁵] The words and figures "or the Bengal Tenancy (Amendment) Act, 1907," in this s 19, were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act 1 of 1907), s 9 (2), in Vol III of this Code

(Secs. 20-21.)

(Amendment) Act, 1907^[1] comes into force, have a right of occupancy in that land.

[²] (2) The exclusion from the operation of this Act, by a notification under sub-section (3) of section 1, of any area constituted a Municipality under the provisions of the Bengal Municipal Act, 1884^[3], or of any part of such area, or the inclusion of any area in the town of Calcutta by notification under section 637 of the Calcutta Municipal Act, 1899,^[4] shall not affect any right, obligation or liability previously acquired, incurred or accrued in reference to such area.

Definition of
"settled
raiya".

20. (1) Every person who, for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a *raiya* land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled *raiya* of that village.

(2) A person shall be deemed, for the purposes of this section, to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times.

(3) A person shall be deemed, for the purposes of this section, to have held as a *raiya* any land held as a *raiya* by a person whose heir he is.

(4) Land held by two or more co-sharers as a *raiya* holding shall be deemed, for the purposes of this section, to have been held as a *raiya* by each such co-sharer.

(5) A person shall continue to be a settled *raiya* of a village as long as he holds any land as a *raiya* in that village and for one year thereafter.

(6) If a *raiya* recovers possession of land under section 87, he shall be deemed to have continued to be a settled *raiya* notwithstanding his having been out of possession more than a year.

(7) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a *raiya*, it shall, as between him and the landlord under whom he holds the land, be presumed, for the purposes of this section, until the contrary is proved or admitted, that he has for twelve years continuously held that land or some part of it as a *raiya*.

21. (1) Every person who is a settled *raiya* of a village within the meaning of the last foregoing section shall have a right of occupancy in all land for the time being held by him as a *raiya* in that village.

[¹] Ben. Act 1 of 1907 is printed in Vol. III of this Code.

[²] This sub-section (2) was inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 9 (3), in Vol. III of this Code.

[³] Printed in Vol. II of this Code.

[⁴] Printed in the Bengal Code, Ed. 1913-15, Vol. III.

Settled
*raiya*s to
have
occupancy-
rights.

(Sec. 22)

(2) Every person who, being a settled *rayat* of a village within the meaning of the last foregoing section, held land as a *rayat* in that village at any time between the second day of March, 1833, and the commencement of this Act, shall be deemed to have acquired a right of occupancy in that land under the law then in force, but nothing in this sub-section shall affect any decree or order passed by a Court before the commencement of this Act.

22. (1) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the entire interests of the landlord and the *rayat* in the holding become united in the same person by transfer, succession or otherwise, [1] [such person shall have no right to hold the land as a tenant, but shall hold it as a proprietor or permanent tenure-holder (as the case may be)]; but nothing in this sub-section shall prejudicially affect the rights of any third person.

Effect of acquisition of occupancy-right by land lord.

(2) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, [2] [he shall be entitled to hold the land subject to the payment to his co-proprietors or joint permanent tenure-holders of the shares of the rent which may be from time to time payable to them; and, if such transferee sub-lets the land to a third person, such third person shall be deemed to be a tenure-holder or a *rayat*, as the case may be, in respect of the land.

Illustration—A, a co-sharer landlord, purchases the occupancy holding of a *rayat* X, A is entitled himself to hold the land on payment to his co-sharers of the shares of the rent payable to them in respect of the holding. A sub-lets the land to Y, who takes it for the purpose of establishing tenants on it, Y becomes a tenure holder in respect of the land. Or A sub-lets it to Z, who takes it for the purpose of cultivating it himself, Z becomes a *rayat* in respect of the land.]

(3) A person holding land as an *ijáradar* or farmer of rents shall not while so holding, acquire, [3] [by purchase or otherwise], a right of occupancy in any land comprised in his *ijara* or farm.

Explanation—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure holder, or by subsequently holding the land in *ijara* or farm.

[1] These words in square brackets in this s. 22 (1) were substituted for the words "the occupancy-right shall cease to exist," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 10 (a), in Vol. III of this Code.

[2] The portion of this s. 22 (2) which is printed in square brackets on this page was substituted for the words "it shall cease to exist," but nothing in this subsection shall prejudicially affect the rights of any third person," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 10 (b), in Vol. III of this Code.

[3] These words in square brackets in this s. 22 (3) were inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 10 (c); in Vol. III of this Code.

(Secs. 23-29.)

*Incidents of occupancy-right.*Rights of
raiyat in
respect of
use of land.

23. When a *raiyat* has a right of occupancy in respect of any land, he may use the land in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy; but shall not be entitled to cut down trees in contravention of any local custom.

Obligation of
raiyat to pay
rent.

24. An occupancy-*raiyat* shall pay rent for his holding at fair and equitable rates.

Protection
from eviction
except on
specified
grounds.

25. An occupancy-*raiyat* shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground—

- (a) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy; or
- (b) that he has broken a condition consistent with the provisions of this Act, and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

Devolution of
occupancy
right on
death.

26. If a *raiyat* dies intestate in respect of a right of occupancy, it shall, subject to any custom to the contrary, descend in the same manner as other immoveable property: provided that in any case in which under the law of inheritance to which the *raiyat* is subject his other property goes to the Crown, his right of occupancy shall be extinguished.

*Enhancement of rent.*Presumption
as to fair and
equitable
rent.

27. The rent for the time being payable by an occupancy-*raiyat* shall be presumed to be fair and equitable until the contrary is proved.

Restriction
of
ance-
y-rents.
ancement
rent by
contract.

28. Where an occupancy-*raiyat* pays his rent in money, his rent shall not be enhanced except as provided by this Act.

29. The money-rent of an occupancy-*raiyat* may be enhanced by contract, subject to the following conditions:—

- (a) the contract must be in writing and registered;
- (b) the rent must not be enhanced so as to exceed by more than two annas in the rupee the rent previously payable by the *raiyat*;
- (c) the rent fixed by the contract shall not be liable to enhancement during a term of fifteen years from the date of the contract.

(Sec. 30.)

Provided as follows—

- (i) Nothing in clause (a) shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.
- (ii) Nothing in clause (b) shall apply to a contract by which a *raiyat* binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be effected in respect of the holding by, or at the expense of, his landlord, and to the benefit of which the *raiyat* is not otherwise entitled; but an enhanced rent fixed by such a contract shall be payable only when the improvement has been effected, and except when the *raiyat* is chargeable with default in respect of the improvement, only so long as the improvement exists and substantially produces its estimated effect in respect of the holding.
- (iii) When a *raiyat* has held his land at a specially low rate of rent in consideration of cultivating a particular crop for the convenience of the landlord, nothing in clause (b) shall prevent the *raiyat* from agreeing, in consideration of his being released from the obligation of cultivating that crop, to pay such rent as he may deem fair and equitable.

30. The landlord of a holding held at a money-rent by an occupancy-*raiyat* may, subject to the provisions of this Act, institute a suit to enhance the rent on one or more of the following grounds (namely):—

- [¹](a) that the rate of rent paid by the *raiyat* is below the prevailing rate paid by occupancy-*raiyyats* for land of a similar description and with similar advantages in the same village or in neighbouring villages, and that there is no sufficient reason for his holding at so low a rate;]
- (b) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;
- (c) that the productive powers of the land held by the *raiyat* have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the present rent;

[¹] This clause (a) in s. 30 was substituted for the original clause (a) by the Bengal Tenancy (Amendment) Act, 1900 (Ben. Act 3 of 1900), s. 2, in Vol. III of P. C. Code. The original clause ran thus:—

(a) If at the rate of rent paid by the *raiyat* is below the prevailing rate paid by occupancy-*raiyyats* for land of a similar description and with similar advantages in the same village, and that there is no sufficient reason for his holding at so low a rate."

(Secs. 31B-33.)

Limit to
enhancement
of prevailing
rate.

[¹]31B. When the prevailing rate has once been determined by a Revenue-officer under Chapter X or by a Civil Court in any suit under this Act, it shall not be liable to enhancement save on the ground and to the extent specified in section 30, clause (b), and section 32.

Rules as to
enhancement
on ground of
rise in prices.

32. Where an enhancement is claimed on the ground of a rise in prices—

- (a) the Court shall compare the average prices during the decennial period immediately preceding the institution of the suit with the average prices during such other decennial period as it may appear equitable and practicable to take for comparison;
- (b) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous decennial period taken for purposes of comparison: provided that, in calculating this proportion, the average prices during the later period shall be reduced by one-third of their excess over the average prices during the earlier period;
- (c) If in the opinion of the Court it is not practicable to take the decennial periods prescribed in clause (a), the Court may, in its discretion, substitute any shorter periods therefor.

Rules as to
enhancement
on ground of
landlord's im-
provement.

33. (1) Where an enhancement is claimed on the ground of a landlord's improvement—

- (a) the Court shall not grant an enhancement unless the improvement has been registered in accordance with this Act;
- (b) in determining the amount of enhancement the Court shall have regard to—
 - (i) the increase in the productive powers of the land caused or likely to be caused by the improvement,
 - (ii) the cost of the improvement,
 - (iii) the cost of the cultivation required for utilizing the improvement, and
 - (iv) the existing rent and the ability of the land to bear a higher rent.

(2) A decree under this section shall, on the application of the tenant or his successor in interest, be subject to reconsideration in the event of

[¹] S. 31B was inserted by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 4, in Vol. III of this Code.

(Secs. 31-33.)

the improvement not producing or ceasing to produce the estimated effect.

34. Where an enhancement is claimed on the ground of an increase in productive powers due to fluvial action—

Rules as to enhancement on ground of increase in productive powers due to fluvial action.

(a) the Court shall not take into account any increase which is merely temporary or casual;

(b) the Court may enhance the rent to such an amount as it may deem fair and equitable, but not so as to give the landlord more than one-half of the value of the net increase in the produce of the land.

35. Notwithstanding anything in the foregoing sections, the Court shall not in any case decree any enhancement which is under the circumstances of the case unfair or inequitable.

Enhancement by suit to be fair and equitable.

36. If the Court passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the *raiyat*, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees for any number of years not exceeding five until the limit of the enhancement decreed has been reached.

Power to order progressive enhancement.

37. (1) A suit instituted for the enhancement of the rent of a holding on the ground that the rate of rent paid is below the prevailing rate, or on the ground of a rise in prices, shall not be entertained if within the fifteen years next preceding its institution the rent of the holding has been enhanced by a contract made after the second day of March, 1883, or if within the said period of fifteen years the rent has been commuted under section 30, or a decree has been passed under this Act or any enactment repealed by this Act enhancing the rent on either of the grounds aforesaid or on any ground corresponding thereto or dismissing the suit on the merits.

Limitation of right to bring successive enhancement suits.

(2) Nothing in this section shall affect the provisions of section 373 of the Code of Civil Procedure.^[1]

Reduction of rent.

38. (1) An occupancy-*raiyat* holding at a money-rent may institute a suit for the reduction of his rent on the following grounds, and, except

Provisional

[1] Act 14 of 1872 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and the reference should now be taken to be made to rule 1 in Order XXIII in S.C. 1 to that Code—see a 183 thereof in General Acts, 1908, 13 1909, p. 161.

(Sec. 39.)

as hereinafter provided in the case of a diminution of the area of the holding, not otherwise (namely):—

(a) on the ground that the soil of the holding has without the fault of the *raiyat* become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual, or

(b) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent.

(2) In any suit instituted under this section, the Court may direct such reduction of the rent as it thinks fair and equitable.

Price-lists.

Price-lists of
staple food-
crops.

39. (1) The Collector of every district shall prepare, monthly, or at shorter intervals, periodical lists of the market-prices of staple food-crops grown in such local areas as the Local Government may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

(2) The Collector may, if so directed by the Local Government, prepare for any local area like price-lists relating to such past times as the Local Government thinks fit, and shall submit the lists so prepared to the Board of Revenue for approval or revision.

(3) The Collector shall, one month before submitting a price-list to the Board of Revenue under this section, publish it in the prescribed manner within the local area to which it relates, and if any landlord or tenant of land within the local area, within the said period of one month, presents to him in writing any objection to the list, he shall submit the same to the Board of Revenue with the list.

(4) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette; and any manifest error in any such list discovered after its publication may be corrected by the Collector with the sanction of the Board of Revenue.

(5) The Local Government shall cause to be compiled from the periodical lists prepared under this section lists of the average prices prevailing throughout each year, and shall cause them to be published annually in the official Gazette.

(6) In any proceedings under this Chapter for an enhancement or reduction of rent on the ground of a rise or fall in prices, the Court shall refer to the lists published under this section, and shall presume that

(Sec. 40.)

the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct [¹] [and may presume that the prices shown in the lists prepared for any year prior to the passing of this Act are correct] unless and until it is proved that they are incorrect.

(7) The Local Government, subject to the control of the Governor General in Council, shall make rules for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists under this section

Commutation

40. (1) Where an occupancy *raiyat* pays for a holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, [²] [or partly in any of those ways and partly in cash], either the *raiyat* or his landlord may apply to have the rent commuted to a money-rent. Commutation of rent payable in kind.

(2) The application may be made to the Collector or Sub-divisional Officer, or to [³] [a Revenue-officer appointed by the Local Government]⁴ under the designation of Settlement Officer or Assistant Settlement Officer for the purpose of making a survey and record-of-rights] under Chapter X, or to any other officer specially authorized in this behalf by the Local Government.

(3) On the receipt of the application the officer may determine the sum to be paid as money-rent, and may order that the *raiyat* shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(4) In making the determination the officer shall have regard to—

- (a) the average money-rent payable by occupancy-*raiyats* for land of a similar description and with similar advantages in the vicinity;
- (b) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available; * [⁵]

[¹] These words in square brackets in s. 39 (6) were inserted by the Bengal Tenancy (Amendment) Act, 1877 (Ben. Act 1 of 1877), s. 5, in Vol. III of this Code.
[²] These words in square brackets in s. 40 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1877 (Ben. Act 1 of 1877), s. 11 (i), in Vol. III of this Code.
[³] Now the Governor in Council and Officers (the Local, District and Sub-divisional) Act, 1912 (7 of 1912), s. 3, and sub. D, items 2 and 3 post, p. 497.

[⁴] These words in square brackets in s. 40 (2) were substituted for the words "an officer making a settlement of rents" by the Bengal Tenancy (Amendment) Act, 1877 (Ben. Act 1 of 1877), s. 11 (i), in Vol. III of this Code.

[⁵] The word "and" in clause (b) was repealed by the Bengal Tenancy (Amendment) Act, 1877 (Ben. Act 1 of 1877), s. 11 (ii), in Vol. III of this Code.

(Sec. 39.)

as hereinafter provided in the case of a diminution of the area of the holding, not otherwise (namely):—

- (a) on the ground that the soil of the holding has without the fault of the *raiyat* become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual, or
- (b) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent.

(2) In any suit instituted under this section, the Court may direct such reduction of the rent as it thinks fair and equitable.

Price-lists.

Price-lists of staple food-crops.

39. (1) The Collector of every district shall prepare, monthly, or at shorter intervals, periodical lists of the market-prices of staple food-crops grown in such local areas as the Local Government may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

(2) The Collector may, if so directed by the Local Government, prepare for any local area like price-lists relating to such past times as the Local Government thinks fit, and shall submit the lists so prepared to the Board of Revenue for approval or revision.

(3) The Collector shall, one month before submitting a price-list to the Board of Revenue under this section, publish it in the prescribed manner within the local area to which it relates, and if any landlord or tenant of land within the local area, within the said period of one month, presents to him in writing any objection to the list, he shall submit the same to the Board of Revenue with the list.

(4) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette; and any manifest error in any such list discovered after its publication may be corrected by the Collector with the sanction of the Board of Revenue.

(5) The Local Government shall cause to be compiled from the periodical lists prepared under this section lists of the average prices prevailing throughout each year, and shall cause them to be published annually in the official Gazette.

(6) In any proceedings under this Chapter for an enhancement or reduction of rent on the ground of a rise or fall in prices, the Court shall refer to the lists published under this section, and shall presume that

(Sec 40)

the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct [¹] [and may presume that the prices shown in the lists prepared for any year prior to the passing of this Act are correct] unless and until it is proved that they are incorrect

(7) The Local Government, subject to the control of the Governor General in Council, shall make rules for determining what are to be deemed staple food crops in any local area and for the guidance of officers preparing price lists under this section

Commutation

40 (1) Where an occupancy *rায়ত* pays for a holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, [²] [or partly in any of those ways and partly in cash], either the *rায়ত* or his landlord may apply to have the rent commuted to a money rent

(2) The application may be made to the Collector or Sub divisional Officer, or to [³] [a Revenue officer appointed by the Local Government [⁴] under the designation of Settlement Officer or Assistant Settlement Officer for the purpose of making a survey and record of rights] under Chapter X, or to any other officer specially authorized in this behalf by the Local Government

(3) On the receipt of the application the officer may determine the sum to be paid as money rent, and may order that the *rায়ত* shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined

(4) In making the determination the officer shall have regard to—

(a) the average money rent payable by occupancy *rায়ত*s for land of a similar description and with similar advantages in the vicinity,

(b) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available, • • [⁵]

[¹] These words in square brackets in s. 39 (6) were inserted by the Bengal Tenancy (Amendment) Act 1893 (Ben. Act 3 of 1893) s. 5 in Vol. III of this Code

[²] The words "or partly in any of those ways and partly in cash" in s. 40 (1) were inserted by the Bengal Tenancy (Amendment) Act 1907 (Ben. Act 1 of 1907) s. 11 (i) in Vol. III of this Code

[³] These words in square brackets in s. 40 (2) were substituted for the words "an officer making a settlement of rents" by the Bengal Tenancy (Amendment) Act 1907 (Ben. Act 1 of 1907) s. 11 (7) in Vol. III of this Code.

[⁴] Now the Governor in Council of Bihar and Orissa—see the Bengal Bihar and Orissa and Assam Laws Act 1912 (7 of 1912) s. 3 and Sch. D, Items 8 and 9 *post*, p. 482

[⁵] The word "and" in clause (b) was repealed by the Bengal Tenancy (Amendment) Act 1907 (Ben. Act 1 of 1907) s. 11 (i) in Vol. III of this Code

(Secs. 40A-43.)

- (c) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges; [1] [and
 (d) improvements effected by the landlord or by the occupancy-*raiyat* in respect of the *raiyat's* holding, and to the rules laid down in section 33 regarding enhancement of rent on the ground of a landlord's improvement].

(5) The order shall be in writing, shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue proceeding.

(6) If the application is opposed, the officer shall consider whether under all the circumstances of the case it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it, he shall record in writing the reasons for the refusal.

Period for which commuted rents are to remain unaltered.

[2] 40A. (1) Where the rent of a holding has been commuted under section 40, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration of the area of the holding, be enhanced for fifteen years; nor shall it be reduced for fifteen years, save on the ground of alteration in the area of the holding, or on the ground specified in clause (a) of sub-section (1) of section 38.

(2) The said period of fifteen years shall be counted from the date on which the order takes effect under sub-section (5) of section 40.

[3] CHAPTER VI.

NON-OCCUPANCY-RAIYATS.

Application of Chapter.

41. This Chapter shall apply to *raiyats* not having a right of occupancy, who are in this Act referred to as non-occupancy-*raiyats*.

Initial rent of non-occupancy-*raiyat*. Conditions of enhancement of rent.

42. When a non-occupancy-*raiyat* is admitted to the occupation of land, he shall become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission.

43. The rent of a non-occupancy-*raiyat* shall not be enhanced except by registered agreement or by agreement under section 46:

[1] These words in square brackets were added to s. 40 (4), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 11 (iv), in Vol. III of this Code.

[2] Section 40A was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 12, in Vol. III of this Code.

[3] Chapter VI does not apply to certain lands—see s. 116, *post*, p. 526.

(Secs 41-46)

Provided that nothing in this section shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed

44. A non occupancy *rayat* shall, subject to the provisions of this Act, be liable to ejectment on one or more of the following grounds, and not otherwise (namely) —

Grounds on which a non occupancy *rayat* may be ejected.

- (a) on the ground that he has failed to pay an arrear of rent,
- (b) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected,
- (c) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired,
- (d) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 46, or that the term for which he is entitled to hold at such a rent has expired

45. (Conditions of ejectment on ground of expiration of lease)
Rep by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act I of 1907), s. 2

46. (1) A suit for ejectment on the ground of refusal to agree to an enhancement of rent shall not be instituted against a non occupancy-*rayat* unless the landlord has tendered to the *rayat* an agreement to pay the enhanced rent, and the *rayat* has within three months before the institution of the suit refused to execute the agreement

Conditions of ejectment on ground of refusal to agree to enhancement.

(2) A landlord desiring to tender an agreement to a *rayat* under this section may file it in the office of such Court or officer as the Local Government appoints in this behalf for service on the *rayat*. The Court or officer shall forthwith cause it to be served on the *rayat* in the prescribed manner, and when it has been so served, it shall for the purposes of this section be deemed to have been tendered

(3) If a *rayat* on whom an agreement has been served under sub-section (2) executes it, and within one month from the date of service files it in the office from which it issued, it shall take effect from the commencement of the agricultural year next following

(Secs. 47-48.)

(4) When an agreement has been executed and filed by a *raiyat* under sub-section (3), the Court or officer in whose office it is so filed shall forthwith cause a notice of its being so executed and filed to be served on the landlord in the prescribed manner.

(5) If the *raiyat* does not execute the agreement and file it under sub-section (3), he shall be deemed for the purposes of this section to have refused to execute it.

(6) If a *raiyat* refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Court shall determine what rent is fair and equitable for the holding.

(7) If the *raiyat* agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment under the conditions mentioned in the last foregoing section, unless he has acquired a right of occupancy.

(8) If the *raiyat* does not agree to pay the rent so determined, the Court shall pass a decree for ejectment.

(9) In determining what rent is fair and equitable, the Court shall have regard to the rents generally paid by *raiya*ts for land of a similar description and with like advantages in the same village.

(10) A decree for ejectment passed under this section shall take effect from the end of the agricultural year in which it is passed.

Explanation
of "admitted
to occupa-
tion."

47. Where a *raiyat* has been in occupation of land and a lease is executed with a view to a continuance of his occupation, he is not to be deemed to be admitted to occupation by that lease for the purposes of this Chapter, notwithstanding that the lease may purport to admit him to occupation.

CHAPTER VII.

UNDER-RAIYATS.

Limit of rent
recoverable
from under-
*raiya*ts.

48. The landlord of an under-*raiyat* holding at a money-rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same (namely):—

(a) when the rent payable by the under-*raiyat* is payable under a registered lease or agreement—fifty *per cent*; and

(b) in any other case—twenty-five *per cent*.

(Secs 49-50)

49 An under *rayat* shall not be liable to be ejected by his landlord, except—

1. on expiration of term of lease
2. on expiration of term of lease
3. on expiration of term of lease

(a) on the expiration of the term of a written lease,

(b) when holding otherwise than under a written lease, at the end of the agricultural year next following the year in which a notice to quit is served upon him by his landlord

CHAPTER VIII

GENERAL PROVISIONS AS TO RENT

Rules and presumptions as to amount of rent

50. (1) Where a tenure-holder or *rayat* and his predecessors in interest have held at a rent or rate of rent which has not been changed from the time of the Permanent Settlement the rent or rate of rent shall not be liable to be increased except on the ground of an alteration in the area of the tenure or holding

1. on expiration of term of lease
2. on expiration of term of lease
3. on expiration of term of lease

(2) If it is proved in any suit or other proceeding under this Act that either a tenure holder or *rayat* and his predecessors in interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit or proceeding, it shall be presumed, until the contrary is shown, that they have held at that rent or rate of rent from the time of the Permanent Settlement

Provided that if it is required by or under any enactment that in any local area tenancies, or any classes of tenancies, at fixed rents or rates of rent shall be registered as such on, or before, a date specified by or under the enactment, the foregoing presumption shall not after that date apply to any tenancy or, as the case may be, to any tenancy of that class in that local area unless the tenancy has been so registered

(3) The operation of this section, so far as it relates to land held by a *rayat*, shall not be affected by the fact of the land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding

(4) Nothing in this section shall apply to a tenure held for a term of years or determinable at the will of the landlord

(Secs. 51-52.)

Presumption
as to amount
of rent and
conditions of
holding.

51. If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any agricultural year, he shall be presumed, until the contrary is shown, to hold at the same rent and under the same conditions as in the last preceding agricultural year.

Alteration of rent on alteration of area.

Alteration
of rent in
respect of
alteration in
area.

52. (1) Every tenant shall—

- (a) be liable to pay additional rent for all land proved by measurement to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the tenure or holding of land which having previously belonged to the tenure or holding was lost by diluvion or otherwise without any reduction of the rent being made; and
- (b) be entitled to a reduction of rent in respect of any deficiency proved by measurement to exist in the area of his tenure or holding as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenure or holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(2) In determining the area for which rent has been previously paid, the Court shall, if so required by any party to the suit, have regard to—

- (a) the origin and conditions of the tenancy, for instance, whether the rent was a consolidated rent for the entire tenure or holding;
- (b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord;
- (c) the length of time during which the tenancy has lasted without dispute as to rent or area; and
- (d) the length of the measure used or in local use at the time of the origin of the tenancy as compared with that used or in local use at the time of the institution of the suit.

(3) In determining the amount to be added to the rent, the Court shall have regard to the rates payable by tenants of the same class for lands of a similar description and with similar advantages in the vicinity, and, in the case of a tenure-holder, to the profits to which he is entitled

(Secs. 53-54.)

in respect of the rent of his tenure, and shall not in any case fix any rent which, under the circumstances of the case, is unfair or inequitable.

(4) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the tenure or holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the tenure or holding.

[¹](5) [When in a suit under this section the landlord or tenant is unable to indicate any particular land as held in excess, the rent to be added on account of the excess area may be calculated at the average rate of rent paid on all the lands of the holding exclusive of such excess area.]

[²](6) [When in a suit under this section the landlord or tenant proves that, at the time the measurement on which the claim is based was made, there existed in respect of the estate or permanent tenure or part thereof in which the tenure or holding is situate, a practice of settlement being made after measurement of the land assessed with rent, it may be presumed that the area of the tenure or holding specified in any *patta* or *labuliyat*, or (where there is an entry of area in a counterfoil receipt corresponding to the entry in the rent-roll) in any rent-roll relating to it has been entered in such *patta*, *labuliyat* or rent-roll after measurement.]

Payment of rent.[³]

53. Subject to agreement or established usage, a money-rent payable by a tenant shall be paid in four equal instalments falling due on or before the last day of each quarter of the agricultural year

54. (1) Every tenant shall pay each instalment of rent before sunset ^{Time of} ^{the day of} ^{the month of} the day on which it falls due.

(2) The payment shall, except in cases where a tenant is allowed ^{to} under this Act to deposit his rent, be made at the landlord's village-office, or at such other convenient place as may be appointed in that behalf by the landlord:

[¹] Sub-section (5) was added to s. 52 by the Bengal Tenancy (Amendment) Act, 1905 (Ben. Act 3 of 1905), s. 6, in Vol. III of this Code.

[²] Sub-section (6) was added to section 52 by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 13, in Vol. III of this Code.

[³] The word "rent," in s. 53 to 55 includes also money payable in lieu of any consideration for the time being in force as if it was rent—see s. 3 (1), *ibid.*, p. 42.

(Secs. 55-57.)

Provided that the Local Government may, from time to time, make rules,^[1] either generally or for any specified local area, authorizing a tenant to pay his rent by postal money-order.

(3) Any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed an arrear.

55. (1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited to the account of such year and the instalment as the landlord thinks fit.

[²] *Receipts and accounts.*

56. (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him, signed by the landlord.

(2) The landlord shall prepare and retain a counterfoil of the receipt.

(3) The receipt and counterfoil shall specify such of the several particulars shown in the form of receipt given in Schedule II to this Act as can be specified by the landlord at the time of payment:

Provided that the Local Government may, from time to time, prescribe or sanction a modified form,^[3] either generally or for any particular local area or class of cases.

(4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

57. (1) Where a landlord admits that all rent payable by a tenant to the end of the agricultural year has been paid, the tenant shall be entitled to receive from the landlord, free of charge, within three months after the end of the year, a receipt in full discharge of all rent falling due to the end of the year, signed by the landlord.

[¹] For rules made under s. 54 (2) see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[²] The word "rent," in ss. 56 to 60, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 463.

[³] For orders made under s. 56 (3) see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

Appropriation of payments.

Tenant making payment to his landlord entitled to a receipt.

Tenant entitled to full discharge or statement of account at close of year.

(Sec 58)

(2) Where the landlord does not so admit, the tenant shall be entitled, on paying a fee of four annas, to receive, within three months after the end of the year, a statement of account specifying the several particulars shown in the form of account given in Schedule II to this Act, or in such other form as may from time to time be prescribed by the Local Government either generally or for any particular local area or class of cases

(3) The landlord shall prepare and retain a copy of the statement containing similar particulars

58. (1) If a landlord without reasonable cause refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section 56 for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit to recover from him such penalty, not exceeding double the amount of value of that rent, as the Court thinks fit.

Penalties and fine for withholding receipts and statements of account as if failing to keep court-records

(2) If a landlord without reasonable cause refuses or neglects to deliver to a tenant demanding the same either the receipt in full discharge or, if the tenant is not entitled to such a receipt, the statement of account for any year prescribed in section 57, the tenant may, within the next ensuing agricultural year, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during the year for which the receipt or account should have been delivered

[1](3) If a landlord or his agent, without reasonable cause, fails to deliver to the tenant a receipt or statement, or to prepare and retain a counterpart or copy of a receipt or statement, as required by either of the said sections, such landlord or agent, as the case may be, shall be liable to a fine not exceeding fifty rupees, to be imposed, after summary inquiry, by the Collector.

[1](4) The Collector may hold a summary inquiry under sub-section (3), either on information received from a Revenue-officer within one year, or upon complaint of the party aggrieved made within three months, from the date of failure, or upon the report of a Civil Court

[1](5) Where, in any case instituted under sub-section (3), the Collector discharges any landlord or agent, and is satisfied that the complaint of the tenant on which the proceedings were instituted is false or

[1] The sub-sections (2) to (5) here printed were substituted for the original sub-section (3) by the Bengal Tenancy (Amendment) Act, 1927 (H.M. Act 1 of 1927) s. 16 in Vol. III of this Code. The original sub-section ran thus:—

(3) If a landlord without reasonable cause fails to prepare and retain a counterpart or copy of a receipt or statement as required by either of the said sections, he shall be punished with fine which may extend to fifty rupees."

(Secs. 59-60.)

vexatious, the Collector may, in his discretion, by his order of discharge, direct the tenant to pay to such landlord or agent such compensation, not exceeding fifty rupees, as the Collector thinks fit.

[¹](6) An appeal shall lie to the Commissioner of the Division against any order of the Collector imposing a fine under sub-section (3) or awarding compensation under sub-section (5); and the order [²] passed by the Commissioner on such appeal shall, subject to any order which may be passed on revision by the Board of Revenue, [³] be final.

[¹](7) Any fine imposed or compensation awarded under this section may be recovered in the manner provided by any law [⁴] for the time being in force for the recovery of a public demand.

[¹](8) For the purpose of an inquiry under this section, the Collector shall have power to summon, and enforce the attendance of, witnesses, and compel the production of documents in the same manner as is provided in the case of a Court under the Code of Civil Procedure. [¹] 14 of 1

Local
Government
to prepare
forms of
receipt and
account.

59. (1) The Local Government shall cause to be prepared and kept for sale to landlords at all sub-divisional offices forms of receipts with counterfoils and of statements of account suitable for use under the foregoing sections.

(2) The forms may be sold in books with the leaves consecutively numbered or otherwise as the Local Government thinks fit.

Effect of
receipt by
registered
proprietor,
manager or
mortgagee.

60. Where rent is due to the proprietor, manager or mortgagee of an estate, the receipt of the person registered under the Land Registration Act, 1876 [⁶], as proprietor, manager or mortgagee of that estate, or of his agent authorized in that behalf, shall be a sufficient discharge for the rent; and the person liable for the rent shall not be entitled to plead in defence to a claim by the person so registered that the rent is due to any third person. Ben. A 1876.

But nothing in this section shall affect any remedy which any such third person may have against the registered proprietor, manager or mortgagee.

[¹] Sub-sections (6) to (8) are new—see foot-note on last page.

[²] In Bengal Act 1 of 1907, s. 14, this word is printed as "orders."

[³] Now the Board of Revenue for Bihar and Orissa—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 10, *post*, p. 727.

[⁴] See the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), ss. 4 and 5 in Vol. III of this Code.

[⁵] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[⁶] Printed in Vol. II of this Code.

(Sec 61)

Deposit of rent [1]

61. (1) In any of the following cases, namely —

Application
to deposit
rent in Court.

- (a) when a tenant tenders money on account of rent and the land lord refuses to receive it or refuses to grant a receipt for it,
- (b) when a tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it,
- (c) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money and no person has been empowered to receive the rent on their behalf, or
- (d) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent,

the tenant may present to the Court having jurisdiction to entertain a suit for the rent of his tenure or holding an application in writing for permission to deposit in the Court the full amount of the money then due

(2) The application shall contain a statement of the grounds on which it is made; shall state—

in cases (a) and (b), the name of the person to whose credit the deposit is to be entered,

in case (c), the names of the sharers to whom the rent is due, or of so many of them as the tenant may be able to specify, and

in case (d), the names of the person to whom the rent was last paid and of the person or persons now claiming it,

shall be signed and verified, in the manner prescribed in section 62 of the Code of Civil Procedure[2], by the tenant, or, where he is not personally cognizant of the facts of the case, by some person so cognizant, and shall be accompanied by a fee of such amount as the Local Government, from time to time, by rule[3], directs

[1] The word "rent" in ss 61 to 66, includes also money receivable under any enactment for the use being in fact as if it was rent—see s 3 (1) note p 43

[2] Act 14 of 1902 has been repealed and replaced by the Code of Civil Procedure 1908 (Act 5 of 1908) and the reference should now be taken to be made to rule 15 in Order VI in Sch. I to that Code—see s 103 thereof, in General Act 1908 (F. 120) p 154

[3] The rules made under s 61 (2) are the Local and Orissa Local Statutory Rules and Orders Vol. I, Part IV

(Secs. 62-64.)

Receipt
granted by
Court for
rent deposited
to be a valid
acquittance.

62. (1) If it appears to the Court to which an application is made under the last foregoing section that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court.

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in cases (a) and (b) of the last foregoing section, by the person specified in the application as the person to whose credit the deposit was to be entered;

in case (c) of that section, by the co-sharers to whom the rent is due; and

in case (d) of that section, by the person entitled to the rent.

Notification
of receipt of
deposit.

63. (1) The Court receiving the deposit shall forthwith cause to be affixed in a conspicuous place at the Court-house a notification of the receipt thereof, containing a statement of all material particulars.

(2) If the amount of the deposit is not paid away under the next following section, within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith—

in cases (a) and (b) of section 61, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered;

in case (c) of that section, cause a notice of the receipt of the deposit to be posted at the landlord's village office or in some conspicuous place in the village in which the holding is situate; and

in case (d) of that section, cause a like notice to be served, free of charge on every person who it has reason to believe claims or is entitled to the deposit.

Payment or
refund of
deposit.

64. (1) The Court may pay the amount of the deposit to any person appearing to it to be entitled to the same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(2) The payment may, if the Local Government so direct, be made by postal money-order.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount

(Secs 65-67)

deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Court with which the rent was deposited

(4) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Court receiving a deposit under the foregoing sections, but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section

Arrears of rent [1]

65. Where a tenant is a permanent tenure holder, a *rayat* holding at fixed rates or an occupancy *rayat*, he shall not be liable to ejectment for arrears of rent, but his tenure or holding shall be liable to sale in execution of a decree for the rent thereof, and the rent shall be a first charge thereon

Liability to sale in arrears in case of permanent tenure, holding at fixed rates or occupancy holding

66 (1) When an arrear of rent remains due from a tenant not being a permanent tenure holder, a *rayat* holding at fixed rates or an occupancy *rayat*, at the end of the Bengali year^[2] where that year prevails, or at the end of the month of *Jeth*^[3] where the *Fush* or *Amli* year prevails the landlord may, whether he has obtained a decree for the recovery of the arrear or not and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant

Ejectment for arrears in office cases.

(2) In a suit for ejectment for an arrear of rent a decree passed in favour of the plaintiff shall specify the amount of the arrear and of the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or when the Court is closed on the fifteenth day, on the day upon which the Court re-opens

(3) The Court may for special reasons extend the period of fifteen days mentioned in this section

67. An arrear of rent shall bear simple interest at the rate of twelve [4] [and a half] per centum per annum from the expiration of that

Interest on arrears

[1] The word rent in ss 65 to 68 includes also any rent payable under any enactment for the time being in force as if it was rent—see s 3 (4) note p 423

[2] For the month of *Chaitra* which corresponds with the last part of March and the first part of April

[3] The month of *Jeth* corresponds with the last part of May and the first part of June

[4] The words and a half in s 67 were inserted by the Bengal Tenancy (Amendment) Act 1897 (then Act 1 of 1897) s 15 (2) in A 2 III of the Code

(Secs. 68-69.)

quarter of the agricultural year in which the instalment falls due [1] [to the date of payment or of the institution of the suit, whichever date is earlier.]

Power to award damages on rent withheld without reasonable cause, or to defendant improperly sued for rent.

68. (1) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five *per centum* on the amount of rent decreed, as it thinks fit:

Provided that interest shall not be decreed when damages are awarded under this section.

(2) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twenty-five *per centum* on the whole amount claimed by the plaintiff, as it thinks fit.

Produce rents.

Order for appraising or dividing produce.

69. (1) Where rent is taken by appraisement or division of the produce,—

(a) if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the appraisement or division, or

(b) if there is a dispute about the quantity, value or division of the produce,

the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, make an order appointing such officer as he thinks fit to appraise or divide the produce.

(2) The Collector may, without such an application, make the like order in any case where in the opinion of the District or Sub-divisional Magistrate the making of the order would be likely to prevent a breach of the peace.

(3) Where a Collector makes an order under this section, he may, by order, prohibit the removal of the produce until the appraisement or

[1] The words "to the date of payment or of the institution of the suit, whichever date is earlier" in s. 67, were substituted for the words "to the institution of the suit," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 15 (b), in Vol. III of this Code.

(Secs. 70-71.)

division has been effected;[¹] [but an order made by the Collector under this sub-section shall not prevent the execution of any order passed by the Court for the distraint of the tenant's crops].

[²](4) Every officer appointed by the Collector under sub-section (1) to appraise or divide the produce shall, for the purposes of the Indian Penal Code,[³] be deemed to be a public servant.]

70. (1) When a Collector appoints an officer under the last foregoing section, the Collector may, in his discretion, direct the officer to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selection of those assessors (if any), and the procedure to be followed in making the appraisal or division; and the officer shall conform to the instructions so given.

Procedure where officer appointed

(2) The officer shall, before making an appraisal or division, give notice to the landlord and tenant of the time and place at which the appraisal or division will be made; but if either the landlord or the tenant fails to attend either personally or by agent, he may proceed *ex parte*.

(3) When the officer has made the appraisal or division, he shall submit a report of his proceedings to the Collector.

(4) The Collector shall consider the report, and, after giving the parties an opportunity of being heard and making such inquiry (if any) as he may think necessary, shall pass such order thereon as he thinks just.

(5) The Collector may, if he thinks fit, refer any question in dispute between the parties for the decision of a Civil Court, but, subject as aforesaid, his order shall be final and shall, on application to a Civil Court by the landlord or the tenant, be enforceable as a decree.

(6) Where the officer makes an appraisal, the appraisal papers shall be filed in the Collector's office.

71. (1) Where rent is taken by appraisal of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(2) Where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce

Right and liability as to possession of crop

[¹] These words in square brackets were added to this s. 62 (1), by the Bengal Tenancy (Amendment) Act, 1927 (Ben. Act I of 1927), s. 16 (1), in Vol. III of the Code.

[²] Sub-section (1) was added to s. 62, by the Bengal Tenancy (Amendment) Act, 1927 (Ben. Act I of 1927), s. 16 (2), in Vol. III of the Code.

[³] Printed in the General Acts, 1834-67, Ed. 1929, p. 542.

(Secs. 72-75.)

from the threshing-floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landlord.

(4) If the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof at the proper time, the produce shall be deemed to have been as full as the fullest crop of the same description appraised in the neighbourhood on similar land for that harvest.

[¹] *Liability for rent on change of landlord or after transfer of tenure or holding.*

Tenant not liable to transferee of landlord's interest for rent paid to former landlord without notice of the transfer.

72. (1) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has before the payment given notice of the transfer to the tenant.

(2) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

Liability for rent after transfer of occupancy-holding.

73. When an occupancy-*raiyat* transfers his holding without the consent of the landlord, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, unless and until notice of the transfer is given to the landlord in the prescribed manner.

Illegal cesses, etc.

Abwab, etc., illegal.

74. All impositions upon tenants under the denomination of *abwab*, *mathat* or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void.

Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

75. Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent [²][or interest] lawfully payable, may, within six months from the date of the

[¹] The word "rent" in ss. 72, 73, 74 and 75 includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 463.

[²] The words "or interest," in s. 75, were inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 17, in Vol. III of this Code.

(Sec. 76.)

exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding two hundred rupees; or, when double the amount or value of what is so exacted exceeds two hundred rupees, not exceeding double that amount or value.

CHAPTER IX.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS

Improvements.

76. (1) For the purposes of this Act, the term "improvement," used with reference to a *raiyat's* holding, shall mean any work which adds to the value of the holding which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

Definition of
"improvement."

(2) Until the contrary is shown, the following shall be presumed to be improvements within the meaning of this section:—

- (a) the construction of wells, tanks, water-channels and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;
- (b) the preparation of land for irrigation;
- (c) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or waste-land which is culturable;
- (d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;
- (e) the renewal or re-construction of any of the foregoing works, or alterations therein or additions thereto; and
- (f) the erection of a suitable dwelling-house for the *raiyat* and his family, together with all necessary out-offices.

(3) But no work executed by the *raiyat* of a holding shall be deemed to be an improvement for the purposes of this Act if it substantially diminishes the value of his landlord's property.

(Secs. 77-80.)

Right to
make
improvements
in case of
holding at
fixed rates
and
occupancy-
holding.

77. (1) Where a *raiyat* holds at fixed rates or has an occupancy-right in his holding, neither the *raiyat* nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the holding, except on the ground that he is willing to make it himself.

(2) If both the *raiyat* and his landlord wish to make the same improvement, the *raiyat* shall have the prior right to make it unless it affects another holding or other holdings under the same landlord.

Collector to
decide
question as to
right to make
improvement,
etc.

78. If a question arises between the *raiyat* and his landlord—

- (a) as to the right to make an improvement, or
- (b) as to whether a particular work is an improvement,

the Collector may, on the application of either party, decide the question, and his decision shall be final.

Right to
make im-
provements
in case of
non-occu-
pancy-
holding.

79. (1) A non-occupancy *raiyat* shall be entitled to construct, maintain and repair a well for the irrigation of his holding, with all works incidental thereto, and to erect a suitable dwelling-house for himself and his family, with all necessary out-offices but shall not, except as aforesaid and as next hereinafter provided, be entitled to make any other improvement in respect of his holding without his landlord's permission.

(2) A non-occupancy-*raiyat* who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

Registration
of landlord's
improve-
ments.

80. (1) A landlord may, by application to such Revenue-officer as the Local Government may appoint, register any improvement which he has lawfully made or which has been lawfully made at his expense or which he has assisted a tenant in making.

(2) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local inquiry or otherwise, as the Local Government, from time to time, by rule directs.

(3) The officer receiving the application may reject it if it has not been made within twelve months—

- (a) in the case of improvements made before the commencement of this Act—from the commencement of this Act;
- (b) in the case of improvements made after the commencement of this Act—from the date of the completion of the work.

(Secs 81-83)

81. (1) If any landlord or tenant of a holding desires that evidence relating to any improvement made in respect thereof be recorded, he may apply to a Revenue officer, who shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence, unless he considers that there are no reasonable grounds for making the application, or it is made to appear that the subject matter thereof is under inquiry in a Civil Court.

(2) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in every subsequent proceeding between the landlord and tenant or any persons claiming under them.

82. (1) Every *rayat* who is ejected from his holding shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been paid.

(2) Whenever a Court makes a decree or order for the ejectment of a *rayat*, it shall determine the amount of compensation (if any) due under this section to the *rayat* for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the *rayat*.

(3) No compensation under this section for an improvement shall be claimable where the *rayat* has made the improvement in pursuance of a contract or under a lease binding him in consideration of some substantial advantage to be obtained by him to make the improvement without compensation, and he has obtained that advantage.

(4) Improvements made by a *rayat* between the second day of March, 1884, and the commencement of this Act shall be deemed to have been made in accordance with this Act.

(5) The Local Government may, from time to time by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under this section for an improvement such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

83. (1) In estimating the compensation to be awarded under the last foregoing section for an improvement, regard shall be had—

(a) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement,

(b) to the condition of the improvement, and the probable duration of its effects.

(Secs. 84-85.)

- (c) to the labour and capital required for the making of such an improvement;
- (d) to any reduction or remission of rent or any other advantage given by the landlord to the *raiyat* in consideration of the improvement; and
- (e) in the case of a reclamation or of the conversion of unirrigated into irrigated land, to the length of time during which the *raiyat* has had the benefit of the improvement at an unenhanced rent.

(2) When the amount of the compensation has been assessed, the Court may, if the landlord and *raiyat* agree, direct that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Acquisition of land for building and other purposes.

Acquisition of
land for
building and
other pur-
poses.

84. A Civil Court may, on the application of the landlord of a holding, and on being satisfied that he is desirous of acquiring the holding or part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the estate in which it is comprised, including the use of the ground as building ground, or for any religious, educational or charitable purpose,

and on being satisfied on the certificate of the Collector that the purpose is reasonable and sufficient,

authorize the acquisition thereof by the landlord upon such conditions as the Court may think fit, and require the tenant to sell his interest in the whole or such part of the holding to the landlord upon such terms as may be approved by the Court, including full compensation to the tenant.

Sub-letting.

Restrictions
on sub-
letting.

85. (1) If a *raiyat* sub-lets otherwise than by a registered instrument, the sub-lease shall not be valid against his landlord unless made with the landlord's consent.

(2) A sub-lease by a *raiyat* shall not be admitted to registration if it purports to create a term exceeding nine years.

(3) Where a *raiyat* has, without the consent of his landlord, granted a sub-lease by an instrument registered before the commencement of this Act, the sub-lease shall not be valid for more than nine years from the commencement of this Act.

(Secs 86-87.)

Surrender and abandonment.

86 (1) A *rayat* not bound by a lease or other agreement for a fixed rate of rent for a period may, at the end of any agricultural year, surrender his holding

(2) But, notwithstanding the surrender, the *rayat* shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following the date of the surrender, unless he gives to his landlord, at least three months before he surrenders, notice of his intention to surrender

(3) When a *rayat* has surrendered his holding, the Court shall, in the following cases for the purposes of sub-section (2), presume, until the contrary is shown, that such notice was so given, namely —

(a) if the *rayat* takes a new holding in the same village from the same landlord during the agricultural year next following the surrender,

(b) if the *rayat* ceases, at least three months before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate

(4) The *rayat* may, if he thinks fit, cause the notice to be served through the Civil Court within the jurisdiction of which the holding or any portion of it is situate

(5) When a *rayat* has surrendered his holding the landlord may enter on the holding and either let it to another tenant or take it into cultivation himself

(6) When a holding is subject to an incumbrance secured by a registered instrument, the surrender of the holding shall not be valid unless it is made with the consent of the landlord and the incumbrancer

(7) Save as provided in the last foregoing sub-section, nothing in this section shall affect any arrangement by which a *rayat* and his landlord may arrange for a surrender of the whole or a part of the holding

87. (1) If a *rayat* voluntarily abandons his holding with effect from the end of an agricultural year to his landlord and without arranging for payment of his rent as it falls due and ceases to cultivate his holding either by himself or by some other person, the landlord may, at any time after the expiration of the agricultural year in which the *rayat* so abandons his holding, enter on the holding and let it to another tenant or take it into cultivation himself

(2) Before a landlord enters under this section he shall file a notice in the prescribed form in the Collector's Office stating that he has received

(Sec. 88.)

the holding as abandoned and is about to enter on it accordingly; and the Collector shall cause a notice to be published in such manner as the Local Government, by rule, directs.

(3) When a landlord enters under this section, the *raiyat* shall be entitled to institute a suit for recovery of possession of the land at any time not later than the expiration of two years, or, in the case of a non-occupancy-*raiyat*, six months, from the date of the publication of the notice; and thereupon the Court may, on being satisfied that the *raiyat* did not voluntarily abandon his holding, order recovery of possession on such terms, if any, with respect to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

(4) Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering under this section, on the holding, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the *raiyat* who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that *raiyat*. If the sub-lessee refuses or neglects within a reasonable time to accept the offer, the landlord may avoid the sub-lease and may enter on the holding and let it to another tenant or cultivate it himself as provided in sub-sections (1) and (2).

Sub-division of tenancy.

Division of
tenancy not
binding on
landlord
without his
consent.

[¹]88. A division of a tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made [²][with his *express* consent in writing^[3]] or with that of his agent duly authorized in that behalf:]

[⁴]Provided that, if there is proved to have been made in any landlord's rent-roll any entry showing that any tenure or holding has been divided, or that the rent payable in respect thereof has been distributed, such landlord may be presumed to have given his express consent in writing to such division or distribution.

[¹] Section 88 is not affected by s. 1 of the Bengal Tenancy (Validation and Amendment) Act, 1903 (Ben. Act 1 of 1903)—see s. 3 of that Act in Vol. III of this Code.

[²] These words in square brackets in this s. 88 were substituted for the words "with his consent in writing," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 18 (1), in Vol. III of this Code.

[³] The acceptance of a landlord's fee does not operate as an express consent under s. 88—see s. 18B (b), *ante*, p. 471.

[⁴] This proviso was added to s. 88, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 18 (2), in Vol. III of this Code.

(Sec. 80-92)

Ejectment

80. No tenant shall be ejected from his tenure of holding except in execution of a decree

No tenant
ejected in
execution of
decree

Measurements

90. (1) Subject to the provisions of this section and any contract, a landlord may, by himself or by any person authorized by him in this behalf, enter on and measure all land comprised in his estate or tenure, other than land exempt from the payment of revenue

Landlord's
right to
measure land

(2) A landlord shall not, without the consent of the tenant, or the written permission of the Collector, be entitled to measure land more than once in ten years, except in the following cases (namely) —

- (a) where the area of the tenure or holding is liable, by reason of alluvion or diluvion, to vary from year to year, and the rent payable depends on the area,
- (b) where the area under cultivation is liable to vary from year to year and the rent payable depends on the area under cultivation,
- (c) where the landlord is a purchaser otherwise than by voluntary transfer and not more than two years have elapsed since the date of his entry under the purchase

(3) The ten years shall be computed from the date of the last measurement, whether made before or after the commencement of this Act

91. (1) Where a landlord desires to measure any land which he is entitled to measure under the last foregoing section, the Civil Court may, on the application of the landlord, make an order requiring the tenant to attend and point out the boundaries of the land

Power for
Court to order
tenant to
attend and
point out
boundaries

(2) If the tenant refuses or neglects to comply with the order, a map or other record of the boundaries and measurements of the land prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

92. (1) Every measurement of land made by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made by the acre, unless the Court or Revenue-officer directs that it may be made by any other specified standard

(2) If the rights of the parties are regulated by any local measure other than the acre, the acre shall be converted into the local measure for the purposes of the suit or proceeding

(Secs. 93-95.)

(3) The Local Government may, after local inquiry, make a declaration for any local area the standard or standards of measures locally in use in that area; and every declaration so made shall be presumed to be correct until the contrary is shown.

Managers.

Power to call upon co-owners to show cause why they should not appoint a common manager.

[¹]93. When any dispute exists between co-owners of an estate or tenure as to the management thereof, and in consequence thereof a dispute has ensued, or is likely to ensue,

- (a) inconvenience to the public, or
- (b) injury to private rights,

the District Judge may, on the application in case (a) of the Collector, and in case (b) of any one having an interest in the estate or tenure, direct a notice to be served on all the co-owners, calling on them to show cause why they should not appoint a common manager.

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he claims, and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under the Land Registration Act, 1876.[²]

Power to order them to appoint a manager, if cause is not shown.

94. If the co-owners fail to show cause as aforesaid within one month after service of a notice under the last foregoing section, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served on any co-owner who did not appear before it was made.

Power to appoint manager, if order is not obeyed.

95. If the co-owners do not, within such period, not being less than one month after the making of an order under the last foregoing section, as the District Judge may fix in this behalf, or, where the order has been served as directed by that section, within a like period after service, appoint a common manager and report the appointment to the District Judge, the District Judge may, unless it is shown to his satisfaction that there is a prospect of a satisfactory arrangement being made within a reasonable time,—

- (a) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards consents to undertake the management thereof; or
- (b) in any case appoint a manager.

[¹] For notes to s. 93, see the Bengal Wards' Manual, 1909, pp. 258, 259.
 [²] Printed in Vol. II of this Code.

(Secs. 96-99.)

96. The Local Government may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under clause (b) of the last foregoing section; and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

97. In any case in which the Court of Wards undertakes under section 95 the management of an estate or tenure, so much of the provisions of the Court of Wards' Act, 1879, [1] as relates to the management of immovable property shall apply to the management.

98. (1) A manager appointed under section 95 may, if the District Judge thinks fit, be remunerated by a fixed salary or percentage of the money collected by him as manager, or partly in one way and partly in the other, as the District Judge, from time to time, directs.

(2) He shall give such security for the proper discharge of his duties as the District Judge directs.

(3) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co-owners jointly might but for his appointment have exercised, and the co-owners shall not exercise any such power.

(4) He shall deal with and distribute the profits in accordance with the orders of the District Judge.

(5) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts.

(6) He shall pass his accounts at such period and in such form as the District Judge may direct.

(7) He may make any application which the proprietors could make under section 103.

(8) He shall be removable by the order of the District Judge and not otherwise.

[1] 99. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 95, the District Judge may at any time direct that the management of it be restored to the co-owners, if he is satisfied that the management will be conducted by them without inconvenience to the public or injury to private rights.

[1] Printed in Vol. II of the Code.

[2] See s. 98 of the Bengal Wards' Act, 1879, p. 20.

(Secs. 100-101.)

Power to
make rules.

[¹]100. The High Court may, from time to time, make rules defining the powers and duties of managers under the foregoing sections.

[²]CHAPTER X.

RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

*Part I.—Record-of-rights.*Power to
order survey
and
preparation
of record-of-
rights.

101. (1) The Local Government may, in any case with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a survey be made and a record-of-rights be prepared by a Revenue-officer, in respect of the lands in any local area, estate or tenure or part thereof.

(2) The cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following, namely:—

[³][(a) where—

- (i) the landlord or tenants, or
- (ii) a proportion of not less than one-half of the total number of landlords, or
- (iii) a landlord, or a proportion of the landlords, whose interest, or the aggregate of whose interests, respectively, in the lands of the local area, estate or tenure or part thereof is not less than one-half of the total shares of all the landlords therein, or

[¹] For rules made under s. 100, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[²] This Chapter was substituted for the original Chapter X by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 7, in Vol. III of this Code. As regards proceedings under ss. 104, 105 and 106 of the Bengal Tenancy Act, 1885 (8 of 1885), as originally passed, see the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), ss. 8, 9, in Vol. III of this Code.

Every Deputy Collector making a partition under the Estates Partition Act, 1897 (Ben. Act 5 of 1897), has, as regards the estate under partition, all the powers exercisable by a Revenue-officer employed in preparing a record-of-rights under Chapter X of the present Act, see s. 44 of the former Act, in Vol. III of this Code.

[³] This clause (a) was substituted for the original clause (a), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 19 (1), in Vol. III of this Code. The original clause ran thus:—

“where the landlord or tenants, or a large proportion of the landlords or of the tenants, apply for such an order, and deposit, or give security for, such amount for the payment of expenses as the Local Government directs.”

(Sec 102)

- (a) a proportion of not less than one-fourth of the total number of tenants,
 applies, or apply, for such an order, depositing, or giving security for, such amount for the payment of expenses as the Local Government directs,]
- (b) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally,
- (c) where the local area estate or tenure or the part thereof belongs to or is managed by the Government or the Court of Wards [1] [or a manager appointed by the District Judge under section 95]
- (d) where a settlement of land revenue is being or is about to be made in respect of the local area estate or tenure or of the part thereof

Explanation 1—The term settlement of land revenue as used in clause (d), includes a settlement of rents in an estate or tenure which belongs to the Government.

Explanation 2—A superior landlord may apply for an order under this section notwithstanding that his estate or part thereof is temporarily leased to a tenant-holder.

(3) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

(4) The survey shall be made and the record of rights prepared in accordance with rules made in this behalf by the Local Government.

102 Where an order is made under section 101, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars some or all of the following, namely:—

- (a) the name of each tenant or occupant
- (b) the class to which each tenant belongs: that is to say whether he is a tenure holder, *raiyat* holding at fixed rates settled *raiyat*, occupancy *raiyat*, non-occupancy *raiyat* or under-*raiyat*, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure,
- (c) the situation and quantity and one or more of the boundaries of the land held by each tenant or occupant,
- (d) the name of each tenant's landlord.

[1] The words "or a manager appointed by the District Judge under a Commission" in clause (c) were added by the Bengal Tenancy (Amendment) Act, 1928 (Comm. Act I of 1928) s. 12 (2), in Vol III of this Code.

(Secs. 100-101.)

Power to
make rules.

[¹]100. The High Court may, from time to time, make rules defining the powers and duties of managers under the foregoing sections.

[²]CHAPTER X.

RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

Part I.—Record-of-rights.

Power to
order survey
and
preparation
of record-of-
rights.

101. (1) The Local Government may, in any case with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a survey be made and a record-of-rights be prepared by a Revenue-officer, in respect of the lands in any local area, estate or tenure or part thereof.

(2) The cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following, namely:—

[³][(a) where—

- (i) the landlord or tenants, or
- (ii) a proportion of not less than one-half of the total number of landlords, or
- (iii) a landlord, or a proportion of the landlords, whose interest, or the aggregate of whose interests, respectively, in the lands of the local area, estate or tenure or part thereof is not less than one-half of the total shares of all the landlords therein, or

[¹] For rules made under s. 100, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[²] This Chapter was substituted for the original Chapter X by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 7, in Vol. III of this Code. As regards proceedings under ss. 104, 105 and 106 of the Bengal Tenancy Act, 1885 (8 of 1885), as originally passed, see the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), ss. 8, 9, in Vol. III of this Code.

Every Deputy Collector making a partition under the Estates Partition Act, 1897 (Ben. Act 5 of 1897), has, as regards the estate under partition, all the powers exercisable by a Revenue-officer employed in preparing a record-of-rights under Chapter X of the present Act, see s. 44 of the former Act, in Vol. III of this Code.

[³] This clause (a) was substituted for the original clause (a), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 19 (1), in Vol. III of this Code. The original clause ran thus:—

“where the landlord or tenants, or a large proportion of the landlords or of the tenants, apply for such an order, and deposit, or give security for, such amount for the payment of expenses as the Local Government directs.”

(Sec 102)

- (11) a proportion of not less than one-fourth of the total number of tenants,
 applies, or apply, for such an order, depositing, or giving security for, such amount for the payment of expenses as the Local Government directs,]
- (b) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally,
- (c) where the local area estate or tenure or the part thereof belongs to or is managed by, the Government or the Court of Wards [1] [or a manager appointed by the District Judge under section 95,]
- (d) where a settlement of land revenue is being or is about to be made in respect of the local area, estate or tenure or of the part thereof

Explanation 1—The term 'settlement of land revenue' as used in clause (d), includes a settlement of rents in an estate or tenure which belongs to the Government.

Explanation 2—A superior landlord may apply for an order under this section, notwithstanding that his estate or part thereof is temporarily leased to a tenure-holder

(3) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made

(4) The survey shall be made and the record of rights prepared in accordance with rules made in this behalf by the Local Government

102 Where an order is made under section 101, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following, namely —

Particulars to be recorded

- (a) the name of each tenant or occupant
- (b) the class to which each tenant belongs, that is to say, whether he is a tenure holder, *rayat* holding at fixed rates, settled *rayat*, occupancy *rayat*, non-occupancy-*rayat* or under-*rayat*, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure,
- (c) the situation and quantity and one or more of the boundaries of the land held by each tenant or occupier,
- (d) the name of each tenant's landlord,

[1] The words "or a manager appointed by the District Judge under a G.O." in clause (c) were added by the Bengal Tenancy (Amendment) Act, 1907 (Beng. Act 1 of 1907) s. 12 (F), in Vol III of the Code.

(Sec. 102A.)

- [¹][(*dd*) the name of each proprietor in the local area or estate;]
 (e) the rent payable at the time the record-of-rights is being prepared;
 (f) the mode in which that rent has been fixed—whether by contract, by order of a Court, or otherwise;
 (g) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases;
 [²][(*gg*) the rights and obligations of each tenant and landlord in respect of—
 (*i*) the use by tenants of water for agricultural purposes, whether obtained from a river, *jhil*, tank or well, or any other source of supply, and
 (*ii*) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land;]
 (*h*) the special conditions and incidents, if any, of the tenancy;
 [³][(*i*) any right of way or other easement attaching to the land for which a record-of-rights is being prepared;]
 [⁴](*j*) if the land is claimed to be held rent-free—whether or not rent is actually paid, and, if not paid, whether or not the occupant is entitled to hold the land without payment of rent, and if so entitled, under what authority.

Power to
order survey
and
reparation
record-
rights
to water.

[⁵]**102A.** The Local Government may, for the purpose of settling or averting disputes existing or likely to arise between landlords, tenants, proprietors, or persons belonging to any of these classes, regarding the use or passage of water,

make an order directing that a survey be made, and a record-of-rights be prepared, by a Revenue-officer, in order to ascertain and record the

[¹] Clause (*dd*) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 20 (1), in Vol. III of this Code.

[²] Clause (*gg*) was inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 20 (2), in Vol. III of this Code, and is to be deemed to have been so inserted from the commencement of the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), in Vol. III of this Code.

[³] Clause (*i*) was inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 20 (3), in Vol. III of this Code.

[⁴] This clause was formerly lettered (*i*), and was re-lettered (*j*), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 20 (3), in Vol. III of this Code.

[⁵] S. 102A was inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 21, in Vol. III of this Code.

(Secs 103 103B)

rights and obligations of each tenant and landlord in any local area, estate or tenure or part thereof, in respect of—

- (a) the use by tenants of water for agricultural purposes, whether obtained from a river, *ghat*, tank or well, or any other source of supply, and
- (b) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land

103. On the application of one or more of the proprietors or tenure-holders, or of a large proportion of the *raiyats*, of an estate or tenure, and on the applicant or applicants depositing or giving security for the required amount for expenses, a Revenue-officer may, subject to and in accordance with, rules made in this behalf by the Local Government ascertain and record all or any of the particulars specified in section 102 with respect to the estate or tenure or any part thereof

103A. (1) When a draft record of rights has been prepared, the Revenue-officer shall publish the draft in the prescribed manner and for the prescribed period, and shall receive and consider any objections which may be made to any entry therein, or to any omission therefrom, during the period of publication

(2) When such objections have been considered and disposed of according to such rules as the Local Government may prescribe, and (if a settlement of land revenue is being or is about to be made) the Settlement Rent roll has been incorporated with the record under section 101F, sub-section (7), the Revenue-officer shall finally frame the record and shall cause it to be finally published in the prescribed manner, and the publication shall be conclusive evidence that the record has been duly made under this Chapter

(3) Separate draft or final records may be published under sub-section (1) or sub-section (2) for different local areas, estates, tenures or parts thereof

103B (1) In any suit or other proceeding in which a record of rights prepared and published under this Chapter, or a duly certified

[103B section was substituted for the former 103B by the Bengal Tenancy (Amendment) Act 1900 (then Act I of 1900) s. 22 in Vol. III of the C.O.

The former 103B ran thus—
"If it is proved to the satisfaction of the Revenue-officer that a record of rights has been duly prepared under this Chapter, it shall be conclusive evidence of such facts as are and shall be in a record of rights as so prepared and published, and the contrary is prohibited."

(Sec. 104.)

copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published, unless such publication is expressly denied; and a certificate, signed by the Revenue-officer, or by the Collector of any district in which the local area, estate or tenure or part thereof to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication.

(2) The Local Government may, by notification,^[1] declare, with regard to any specified area, that a record-of-rights has been finally published for every village included in such area; and such notification shall be conclusive evidence of such publication.

(3) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until it is proved by evidence to be incorrect.

Part II.—Settlement of Rents, preparation of Settlement Rent-roll, and
[^[2]disposal of objections], in cases where a settlement of land-
Revenue is being or is about to be made.

Settlement
of rents and
preparation
of Settlement
Rent-roll
when to be
undertaken
by Revenue-
officer.

104. In every case in which a settlement of land-revenue is being or is about to be made, the Revenue-officer shall, after publication of the draft of the record-of-rights under section 103A, sub-section (1),—

- (a) settle fair and equitable rents for tenants of every class,
- (b) notwithstanding anything contained in section 192, settle a fair and equitable rent for any land in respect of which he has recorded, in pursuance of [^[3]clause (j)] of section 102, that the occupant is not entitled to hold it without payment of rent, and
- (c) prepare a Settlement Rent-roll:

[^[4]Provided that the Revenue-officer shall not settle the rents of tenants of every class in an estate or tenure belonging to the Government, if it does not appear to the Local Government to be expedient that he should do so.][^[5]

[^[1] For a list of notifications issued under s. 103B (2), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[^[2] The words "*disposal of objections*," in this heading, were substituted for the words "*decision of disputes*," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 23, in Vol. III of this Code.

[^[3] This reference "clause (j)" was substituted for the reference "clause (i)," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 24 (1), in Vol. III of this Code.

[^[4] This proviso was added to s. 104, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 24 (2), in Vol. III of this Code.

[^[5] For an order made under the proviso to s. 104, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

(Secs. 104A-104D.)

104A. (1) For the purposes of settling rents under this Part and preparing a Settlement Rent-roll, the Revenue-officer may proceed in any one or more of the following ways or partly in one of those ways and partly in another, that is to say,—

Procedure for settlement of rents and preparation of Settlement Rent roll under this Part.

- (a) if in any case the landlord and tenant agree between themselves as to the amount of the rent fairly and equitably payable, the Revenue-officer shall satisfy himself that the rent so agreed upon is fair and equitable, and if he is so satisfied, but not otherwise, it may be settled and recorded as the fair and equitable rent;
- (b) the Revenue-officer may himself propose what he deems to be the fair and equitable rent, and if the amount so proposed is accepted, either orally or in writing, by the tenant, and if the landlord, after notice to attend, raises no objection, the rent so proposed may be settled and recorded as the fair and equitable rent;
- (c) if the circumstances are, in the opinion of the Revenue-officer, such as to make it practicable to prepare a Table of Rates showing for any local area, estate, tenure or village or part thereof, or for each class of land in any local area, estate, tenure or village or part thereof, the rate or rates of rent fairly and equitably payable by tenure-holders and *raiyats* and under-*raiyats* of each class, he may frame a Table of Rates and settle and record all or any of the rents on the basis of such rates in the manner hereinafter described;
- (d) the Revenue-officer may settle all or any of the rents by maintaining the existing rentals recorded in the record-of-rights as published under section 103A, sub-section (1), or by enhancing or reducing such rentals:

Provided that, in making any such settlement, regard shall be had to the principles laid down in sections 6 to 9 (both inclusive), 27 to 36 (both inclusive), 38, 39, 43, 50 to 52 (both inclusive), 180 and 191.

(2) The Settlement Rent-roll shall show the name of each landlord and of each tenant whose rent has been settled, and the amount of each such tenant's rent payable for the area shown against his name.

104B. (1) If a Table of Rates is prepared, it shall specify—

- (a) the class or several classes of land for which, having regard to the nature of the soil, situation, means of irrigation,

Contents of Table of Rates.

(Sec. 104.)

copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published, unless such publication is expressly denied; and a certificate, signed by the Revenue-officer, or by the Collector of any district in which the local area, estate or tenure or part thereof to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication.

(2) The Local Government may, by notification,^[1] declare, with regard to any specified area, that a record-of-rights has been finally published for every village included in such area; and such notification shall be conclusive evidence of such publication.

(3) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until it is proved by evidence to be incorrect.

Part II.—Settlement of Rents, preparation of Settlement Rent-roll, and
[2][disposal of objections], in cases where a settlement of land-
Revenue is being or is about to be made.

Settlement
of rents and
preparation
of Settlement
Rent-roll
when to be
undertaken
by Revenue-
officer.

104. In every case in which a settlement of land-revenue is being or is about to be made, the Revenue-officer shall, after publication of the draft of the record-of-rights under section 103A, sub-section (1),—

- (a) settle fair and equitable rents for tenants of every class,
- (b) notwithstanding anything contained in section 192, settle a fair and equitable rent for any land in respect of which he has recorded, in pursuance of ^[3][clause (j)] of section 102, that the occupant is not entitled to hold it without payment of rent, and
- (c) prepare a Settlement Rent-roll:

^[4][Provided that the Revenue-officer shall not settle the rents of tenants of every class in an estate or tenure belonging to the Government, if it does not appear to the Local Government to be expedient that he should do so.][⁵]

^[1] For a list of notifications issued under s. 103B (2), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

^[2] The words "disposal of objections," in this heading, were substituted for the words "decision of disputes," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 23, in Vol. III of this Code.

^[3] This reference "clause (j)" was substituted for the reference "clause (i)," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 24 (1), in Vol. III of this Code.

^[4] This proviso was added to s. 104, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 24 (2), in Vol. III of this Code.

^[5] For an order made under the proviso to s. 104, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

(Secs. 101A-101B.)

104A. (1) For the purposes of settling rents under this Part and preparing a Settlement Rent-roll, the Revenue-officer may proceed in any one or more of the following ways or partly in one of those ways and partly in another, that is to say,—

Procedure for settlement of rents and preparation of Settlement Rent-roll under this Part.

- (a) if in any case the landlord and tenant agree between themselves as to the amount of the rent fairly and equitably payable, the Revenue-officer shall satisfy himself that the rent so agreed upon is fair and equitable, and if he is so satisfied, but not otherwise, it may be settled and recorded as the fair and equitable rent;
- (b) the Revenue-officer may himself propose what he deems to be the fair and equitable rent, and if the amount so proposed is accepted, either orally or in writing, by the tenant, and if the landlord, after notice to attend, raises no objection, the rent so proposed may be settled and recorded as the fair and equitable rent;
- (c) if the circumstances are, in the opinion of the Revenue-officer, such as to make it practicable to prepare a Table of Rates showing for any local area, estate, tenure or village or part thereof, or for each class of land in any local area, estate, tenure or village or part thereof, the rate or rates of rent fairly and equitably payable by tenure-holders and *raiyats* and under-*raiyats* of each class, he may frame a Table of Rates and settle and record all or any of the rents on the basis of such rates in the manner hereinafter described;
- (d) the Revenue-officer may settle all or any of the rents by maintaining the existing rentals recorded in the record-of-rights as published under section 103A, sub-section (1), or by enhancing or reducing such rentals:

Provided that, in making any such settlement, regard shall be had to the principles laid down in sections 6 to 9 (both inclusive), 27 to 36 (both inclusive), 38, 39, 43, 50 to 52 (both inclusive), 180 and 191.

(2) The Settlement Rent-roll shall show the name of each landlord and of each tenant whose rent has been settled, and the amount of each such tenant's rent payable for the area shown against his name.

101B. (1) If a Table of Rates is prepared, it shall specify—

Contents of Table of Rates

- (a) the class or several classes of land for which, having regard to the nature of the soil, situation, means of irrigation,

(Sec. 104C.)

and other like considerations, it is in the opinion of the Revenue-officer necessary or practicable to fix a rate or different rates of rent; and

(b) the rate or rates of rent fairly and equitably payable by tenants holding land of each such class whose rent is liable to alteration.

Local
publication
of Table.

(2) When the Revenue-officer has prepared the Table of Rates, he shall publish it in the local area, estate, tenure or village to which it relates, in the vernacular language prevailing in the district, and in the prescribed manner.

Revenue-
officer to
deal with
objections.

(3) Any person objecting to any entry in the Table of Rates may present a petition to the Revenue-officer within a period of one month after such publication, and the Revenue-officer shall consider any such objection and may alter or amend the Table.

Table to be
submitted to
superior
Revenue
authority.

(4) If no objection is made within the said period of one month, or, where objections are made, after they have been disposed of, the Revenue-officer shall submit his proceedings to the Revenue authority empowered by rule made by the Local Government to confirm the Tables and Rent-rolls prepared under this Part (hereinafter called the "confirming authority"), with a full statement of the grounds of his proposals, and shall forward any petitions of objection which he may have received.

Proceedings
of confirming
authority.

(5) The confirming authority may confirm a Table submitted under sub-section (4), or may disallow the same, or may amend the same in any manner which appears to it proper, and may allow in whole or in part any objection forwarded therewith or subsequently made, or may return the case for further inquiry.

Effect of
Table.

(6) When a Table of Rates has been confirmed by the confirming authority, the order confirming it shall be conclusive evidence that the proceedings for the preparation of the Table have been duly conducted in accordance with this Act; and it may be presumed that the rates shown in the Table for tenants of each class for each class of land, are the fair and equitable rates payable for land of that class within the area to which the Table applies.

104C. When a Table of Rates has been confirmed under section 104B, sub-section (5), the Revenue-officer may settle all or any of the rents and prepare the Settlement Rent-roll on the basis of the rates shown in the Table by calculating the rental of each tenure or each holding of a *raiyat* or under-*raiyat* on the area of such tenure or holding at the said rates:

(Secs. 104D-104G.)

Provided that the Revenue-officer shall not be bound to apply the said rates in any particular case in which he may consider it unfair or inequitable to do so.

104D. In framing a Table of Rates under section 104B, and in settling rents under section 104C, the Revenue-officer shall be guided by such rules as the Local Government may make in this behalf, and shall, so far as may be, and subject to the proviso to the said section 104C, have regard to the general principles of this Act regulating the enhancement or reduction of rents.

Rules and principles to be followed in framing Table of Rates and settling rents in accordance therewith.

104E. (1) When a Settlement Rent-roll for a local area, estate, tenure or village or part thereof has been prepared, the Revenue-officer shall cause a draft of it to be published in the prescribed manner and for the prescribed period, and shall receive and consider any objections made to any entry therein, or omission therefrom, during the period of publication and shall dispose of such objections according to such rules as the Local Government may prescribe.

Preliminary publication and amendment of Settlement Rent roll.

(2) The Revenue-officer may, of his own motion or on the application of any party aggrieved, at any time before a Settlement Rent-roll is submitted to the confirming authority under section 104F, revise any rent entered therein:

Provided that no such entry shall be revised until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

104F. (1) When all objections have been disposed of under section 104E, the Revenue-officer shall submit the Settlement Rent-roll to the confirming authority with a full statement of the grounds of his proposals and a summary of the objections (if any) which he has received.

Final revision of Settlement Rent roll, and incorporation of the same in the record-of-rights.

(2) The confirming authority may sanction the Settlement Rent-roll, with or without amendment, or may return it for revision:

Provided that no entry shall be amended, or omission supplied, until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(3) After sanction by the confirming authority, the Revenue-officer shall finally frame the Settlement Rent-roll and shall incorporate it with the record-of-rights published in draft under section 103A.

104G. (1) An appeal, if presented within two months from the date of the order appealed against, shall lie from every order passed by a Revenue-officer prior to the final publication of the record-of-rights on any objection made under section 104B, sub-section (3), or section 104E;

Appeal as provided by, and subject to, the provisions of the Act.

(Sec. 104H.)

and such appeal shall lie to such superior Revenue authority as the Local Government may by rule prescribe.

(2) The Board of Revenue may, in any case under this Part, on application or of its own motion, direct the revision^[1] of any record-of-rights, or any portion of a record-of-rights, at any time within two years from the date of the certificate of final publication, but not so as to affect any order passed by a Civil Court under section 104H:

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Jurisdiction
of Civil Court
in matters
relating to
rent.

104H. (1) Any person aggrieved by an entry of a rent settled in a Settlement Rent-roll prepared under sections 104A to 104F and incorporated in a record-of-rights finally published under section 103A, or by an omission to settle a rent for entry in such Settlement Rent-roll, may institute a suit in the Civil Court which would have jurisdiction to entertain a suit for the possession of the land to which the entry relates or in respect of which the omission was made.

(2) Such suit must be instituted within six months from the date of the certificate of final publication of the record-of-rights, or, if an appeal has been presented to a Revenue authority under section 104G, then within six months from the date of the disposal of such appeal.

(3) Such suit may be instituted on any of the following grounds, and on no others, namely:—

- (a) that the land is not liable to the payment of rent;
- (b) that the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent;
- (c) that the relation of landlord and tenant does not exist;
- (d) that land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy;
- (e) that the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging;
- (f) that the Revenue-officer has not postponed the operation of the settled rent under the provisions of section 110, clause (a), or has wrongly fixed the date from which it is to take effect under that clause;

[¹] Every revision under s. 104G (2) is subject to confirmation by the Governor General in Council—see s. 112 (3), *post*, p. 524.

(Sec. 104J.)

- (g) that the special conditions and incidents of the tenancy, [¹for any right of way or other easement attaching to the land which is the subject of the tenancy, have not or has not, been recorded, or have or has] been wrongly recorded.

The Secretary of State for India in Council shall not be made a defendant in any such suit unless the Government is landlord or tenant of the land to which the aforesaid entry relates or in respect of which the aforesaid omission was made.

- (4) If it appears to the Court that the entry of rent settled is incorrect, it shall, in case (a) or case (c) mentioned in sub-section (3), declare that no rent is payable, and shall in any other case settle a fair rent;

and, in any case referred to in clause (f) or clause (g) of the said sub-section (3), the Court may declare the date from which the rent settled is to take effect, or pass such order relating to the entry as it may think fit.

- (5) When the Court has declared under sub-section (4) that no rent is payable, the entry to the contrary effect in the record-of-rights shall be deemed to be cancelled.

- (6) In settling a fair rent under sub-section (4) the Court shall be guided by the rents of the other tenures or holdings of the same class comprised in the same Settlement Rent-roll, as settled under sections 104A to 104F.

- (7) Any rent settled by the Court under sub-section (4) shall be deemed to have been duly settled in place of the rent entered in the Settlement Rent-roll.

- (8) Save as provided in this section, no suit shall be brought in any Civil Court in respect of the settlement of any rent or the omission to settle any rent under sections 104A to 104F.

- (9) When a Civil Court has passed final orders or a decree under this section, it shall notify the same to the Collector of the district.

104J. Subject to the provisions of section 104H, all rents settled under sections 104A to 104F and entered in a record-of-rights finally published under section 103A, or settled under section 104G, shall be deemed to have been correctly settled and to be fair and equitable rents within the meaning of this Act.

Presumption
as to rents
settled and
settled under
sections 104A
to 104G.

[¹These words in square brackets in this clause (g) were substituted for the words "have not been recorded, or have," by the Bengal Tenancy (Amendment) Act, No. 23, in 1903.]

(Sec. 104H.)

and such appeal shall lie to such superior Revenue authority as the Local Government may by rule prescribe.

(2) The Board of Revenue may, in any case under this Part, on application or of its own motion, direct the revision^[1] of any record-of-rights, or any portion of a record-of-rights, at any time within five years from the date of the certificate of final publication, but not so as to affect any order passed by a Civil Court under section 104H:

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Jurisdiction
of Civil Court
in matters
relating to
rent;

104H. (1) Any person aggrieved by an entry of a rent settlement Settlement Rent-roll prepared under sections 104A to 104F and incorporated in a record-of-rights finally published under section 104 by an omission to settle a rent for entry in such Settlement Rent-roll may institute a suit in the Civil Court which would have jurisdiction to entertain a suit for the possession of the land to which the error or in respect of which the omission was made.

(2) Such suit must be instituted within six months from the date of the certificate of final publication of the record-of-rights, or if the record-of-rights has been presented to a Revenue authority under section 104, within six months from the date of the disposal of such record-of-rights.

(3) Such suit may be instituted on any of the following grounds, and on no others, namely:—

- (a) that the land is not liable to the payment of rent;
- (b) that the land, although entered in the record-of-rights as held rent-free, is liable to the payment of rent;
- (c) that the relation of landlord and tenant is not correctly stated;
- (d) that land has been wrongly recorded as freehold, leasehold, estate or tenancy, or wrongly omitted as freehold, leasehold, estate or tenancy;
- (e) that the tenant belongs to a class different from that in which he is shown in the record-of-rights as settled tenant;
- (f) that the Revenue-officer has not postponed the date of the settled rent under the provisions of section 104G or has wrongly fixed the date from which the rent is payable under that clause;

[1] Every revision under s. 104G (2) is subject to confirmation by Council—see s. 112 (3), *post*, p. 524.

(Secs. 105A-106.)

satisfy himself that the amount agreed upon is fair and equitable, and, if so satisfied, but not otherwise, he shall record the amount so agreed upon as the fair and equitable rent. If not so satisfied, he shall himself settle a fair and equitable rent as provided in sub-sections (4) and (5).

[¹]105A. Where, in any proceedings for the settlement of rents under this Part, any of the following issues arise:—

Decision of questions arising during the course of settlement of rents under this Part.

- (a) whether the land is, or is not, liable to the payment of rent;
- (b) whether the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent;
- (c) whether the relation of landlord and tenant exists;
- (d) whether the land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy;
- (e) whether the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging;
- (f) whether the special conditions and incidents of the tenancy, or any right of way or other easement attaching to the land have not, or has not, been recorded or have, or has, been wrongly recorded;

the Revenue-officer shall try and decide such issue and settle the rent under section 105 accordingly:

Provided that the Revenue-officer shall not try any issue under this section, which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, and has been tried and decided, or is already being tried, by a Revenue-officer in a suit instituted before him under section 106.

[²]106. In proceedings under this Part, a suit may be instituted before a Revenue-officer at any time within three months from the date of the certificate of the final publication of the record-of-rights under sub-section (2) of section 103A of this Act, by presenting a plaint on stamped paper, for the decision of any dispute regarding any entry which a Revenue-officer has made in, or any omission which the said officer has made from, the record,

Institution of suit before a Revenue-officer.

whether such dispute be between landlord and tenant, or between landlords of the same or of neighbouring estates, or between tenant and

[¹] S. 105A was inserted, by the Bengal Tenancy (Amendment) Act, 1977 (Ben. Act 1 of 1977), s. 26, in Vol. III of this Code.

[²] It was substituted for the original s. 106 by the Bengal Tenancy (Vol. II) Amendment Act, 1933 (Ben. Act 1 of 1933), s. 4, in Vol. III of this Code.

(Secs. 107-108.)

tenant, or as to whether the relationship of landlord and tenant exists, or as to whether land held rent-free is properly so held, or as to any other matter;

and the Revenue-officer shall hear and decide the dispute:

Provided that the Revenue-officer may, subject to such rules as the Local Government may prescribe in this behalf, transfer any particular case or class of cases to a competent Civil Court for trial:

[¹][Provided also that in any suit under this section the Revenue-officer shall not try any issue which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, in proceedings for the settlement of rents under this Part, where such issue has been tried and decided, or is already being tried, by a Revenue-officer under section 105A.]

107. (1) [²][In all proceedings under section 105, section 105A and section 106,] the Revenue-officer shall, subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure[³] for the trial of suits; and his decision in every 140 such proceeding shall have the force and effect of a decree of a Civil Court in a suit between the parties, and, subject to the provisions of sections 108 and 109A, shall be final.

[⁴][(2) A note of all rents settled under section 105, and of all decisions of issues or disputes under section 105A or section 106, and of all rents commuted under section 40 by a Revenue-officer appointed by the designation of Settlement Officer or Assistant Settlement Officer, shall be made in the record-of-rights finally published under sub-section (2) of section 103A; and such note shall be considered as part of the record.]

108. Any Revenue-officer especially[⁵] empowered by the Local Government in this behalf, may, on application or of his own motion, within twelve months from the making of any order or decision under

[¹] This proviso was added to s. 106, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 27, in Vol. III of this Code.

[²] These words and figures in square brackets in s. 107 (1) were substituted for the words and figures "In all proceedings for the settlement of rents under this Part, and in all proceedings under s. 106," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 28 (a), in Vol. III of this Code.

[³] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[⁴] This sub-section (2) was substituted for the original sub-section (2), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 28 (b), in Vol. III of this Code. The original sub-section ran thus:—

"(2) A note of all rents settled and of all decisions of disputes by the Revenue-officer under section 105 or section 106 shall be made by him in the record-of-rights finally published under section 103A, sub-section (2); and such note shall be considered as part of the record."

[⁵] *Sic.* Read specially.

(Secs 108A-109A)

section 105,[¹] [section 105A,] section 106 or section 107, revise the same, whether it was made by himself or by any other Revenue-officer, but not so as to affect any order passed or decree made under section 109A

Provided that no such order or decision shall be so revised if an appeal from it is pending under section 109A or until reasonable notice has been given to the parties concerned to appear and be heard in the matter

10-
n [2]108A Any Revenue-officer especially empowered by the Local Government in this behalf may, on application or of his own motion, within twelve months from the date of the certificate of the final publication of the record of rights under sub section (2) of section 103A, correct any entry in such record of rights which he is satisfied has been made owing to a *bond fide* mistake

Provided that no such correction shall be made if an appeal affecting such entry is pending under section 109A, or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

109. Subject to the provisions of section 109A, a Civil Court shall not entertain any application or suit concerning any matter which is or has already been the subject of an application made, [²][suit instituted or proceedings taken under sections 105 to 108 (both inclusive)] Bar to jurisdiction of Civil Courts.

109A. (1) The Local Government shall appoint[⁴] one or more persons to be a Special Judge or Special Judges for the purpose of hearing appeals from the decisions of Revenue-officer under sections 105 to 108 (both inclusive) Appeals from decisions of Revenue officers

(2) An appeal shall lie to the Special Judge from the decisions of a Revenue officer under sections 105 to 108A [⁴](both inclusive), and the provisions of the Code of Civil Procedure[⁴] relating to appeals shall as nearly as may be, apply to all such appeals

2-
2- (3) Subject to the provisions of Chapter XLII of the Code of Civil Procedure,[²] an appeal shall lie to the High Court from the decision

[¹] These words in square brackets in s. 105 were inserted by the Bengal Tenancy (Amendment) Act 1907 (Ben. Act 1 of 1907) s. 27 in Vol. III of this Code.

[²] s. 103A was inserted by the Bengal Tenancy (Amendment) Act 1907 (Ben. Act 1 of 1907) s. 30 in Vol. III of this Code.

[³] The words and figures in square brackets in s. 107 were substituted for the words 'or suit instituted under ss. 105, 106, 107 or s. 103' by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907) s. 31, in Vol. III of this Code.

[⁴] For a list of orders issued under s. 109A (1) see the Rules and Orders Local Statutory Rules and Orders, Vol. I Part IV.

[⁵] This letter 'A' was inserted by the Bengal Tenancy (Amendment) Act 1907 (Ben. Act 1 of 1907) s. 32 in Vol. III of this Code.

[⁶] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure 1908 (Act 5 of 1908) and this reference should now be taken to be made to that Code—see s. 17 thereof in General Acts 1904(2) Ed. 1909 p. 151.

[⁷] This reference should now be taken to be made to ss. 100 to 103 and 107 of and Order XLII in Schedule I to the Code of Civil Procedure, 1908 (Act 5 of 1908—see s. 153 thereof in General Acts 1904(2) Ed. 1909 p. 151.

(Sec. 109B.)

of a Special Judge in any case under this section (not being a decision settling a rent) as if he were a Court subordinate to the High Court within the meaning of the first section of that Chapter:

Provided that, if in a second appeal the High Court alters the decision of the Special Judge in respect of any of the particulars with reference to which the rent of any tenure or holding has been settled, the Court may settle a new rent for the tenure or holding, but in so doing shall be guided by the rents of the other tenures or holdings of the same class comprised in the same record as ascertained under section 102 or settled under section 105 or section 108.

Part IV.—Supplemental Provisions.

Power of
Revenue-
officer
to give
effect to
agreement or
compromise.

[¹]109B. (1) In framing a record-of-rights, and in deciding disputes, under this Chapter, the Revenue-officer shall give effect to any lawful agreement or compromise made or entered into by any landlord and his tenant;

but he shall not give effect to any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act.

(2) Where any agreement or compromise has been made for the purpose of settling a dispute as to the rent payable, the Revenue-officer shall,

in order to ascertain whether the effect of such agreement or compromise would be to enhance the rent in a manner, or to an extent, not allowed by section 29 in the case of a contract,

record evidence as to the rent which was legally payable immediately before the period in respect of which the dispute arose.

(3) Where the terms of any agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, the Revenue-officer shall not give effect to such agreement or compromise unless and until he is satisfied by evidence that the statements made by the parties thereto are correct.

Illustration.—A, a proprietor, agrees that B, his tenant, shall be recorded as an occupancy-raiyat: this affects the rights of the tenants of B. The Revenue-officer must, under sub-section (3), inquire whether B is a tenure-holder or a raiyat, as defined in section 5. If he finds on the evidence that B is a raiyat, he may give effect to the agreement, but shall not do so if he finds that B is a tenure-holder.

[¹] These ss. 109B to 109D were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 33, in Vol. III of this Code.

(Secs 109C-110)

[1]109C (1) Notwithstanding anything contained in section 109B, ^{Power to Revenue officer to settle rents on agreement.} if, in any case while the record is being prepared, the landlord and tenant agree as to the rent which shall be recorded as payable for the tenure or holding,

a Revenue officer specially empowered in this behalf by the Local Government may, if he is satisfied that the rent agreed upon is fair and equitable, but not otherwise, settle such rent as a fair and equitable rent, although the terms of the agreement are such that, if they were embodied in a contract, they could not be enforced under this Act,

and the provisions of section 113 shall apply to a rent so settled

(2) A landlord or tenant may appeal to the Special Judge appointed under section 109A on the ground that the rent settled by the Revenue officer, under sub section (1), as a fair and equitable rent, was not agreed to by such landlord or tenant, and on no other ground

(3) The Board of Revenue may, on application made, or of its own motion in proceedings undertaken, within one year from the date of the order, under sub section (1), settling a rent as a fair and equitable rent, direct the revision of the rent so settled

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter

109D A note of all rents settled, and of all decisions of disputes ^{Note of decision on record.} on revision or appeal, under section 108 section 109A or sub section (2) or sub section (3) of section 109 C, shall be made in the record of rights finally published under sub section (2) of section 103A, and such note shall be considered as part of the record

110 When a rent is settled by a Revenue officer under this Chapter, ^{Date from which settled rent takes effect.} it shall take effect from the beginning of the agricultural year next after the date of the decision fixing the rent or (if a settlement of land revenue is being or is about to be made) the date of final publication of the Settlement Rent roll

Provided as follows:—

- (a) if the land is comprised in an area, estate or tenure in respect of which a settlement of land revenue is being or is about to be made, the rent settled shall, subject to the provisions of sections 191 and 192, take effect from the expiration of the period of the current settlement, or from such other date after the expiration of that period as may be fixed by the Revenue officer,

(Secs. 111-111B.)

- (b) if the land is not comprised in an area, estate or tenure as aforesaid, and if the existing rent has been fixed by a contract binding between the parties for an unexpired term of years, the rent settled shall take effect from the expiration of that term, or from such other date after the expiration of that term as may be fixed by the Revenue-officer.

Stay of proceedings in Civil Court during preparation of record-of-rights.

111. When an order has been made under section 101, directing the preparation of a record-of-rights, then, subject to the provisions of section 104H, a Civil Court shall not,—

- (a) where a settlement of land-revenue is being or is about to be made—until after the final publication of the record-of-rights, and
- (b) where a settlement of land-revenue is not being made or is not about to be made—until three months after the final publication of the record-of-rights,

entertain [¹][any application made under section 158, or] any suit or application for the alteration of the rent or the determination of the status of any tenant, in the area to which the record-of-rights applies.

Limitation of Jurisdiction of Civil Courts in matters, other than rent, relating to record-of-rights.

111A. No suit shall be brought in any Civil Court in respect of any order directing the preparation of a record-of-rights under this Chapter or in respect of the framing, publication, signing or attestation of such a record or of any part of it, or, save as provided in section 104H, for the alteration of any entry in such a record of a rent settled under sections 104A to 104F:

Provided that any person who is dissatisfied with any entry in, or omission from, a record-of-rights framed in pursuance of an order made under section 101, sub-section (2), clause (d), which concerns a right of which he is in possession, may institute a suit for declaration of his right under Chapter VI^[2] of the Specific Relief Act, 1877.

Stay of suits in which certain issues arise.

[³]111B. (1) Where a record-of-rights has been prepared and finally published in respect of the land in an area in which a settlement of land-revenue is not being made, or is not about to be made, no application or suit affecting such land or any tenant thereof shall, within three months from the date of the certificate of final publication of such record-of-rights, be made or instituted in any Civil Court for the decision of any of the following issues, namely:—

- (a) whether the land is or is not liable to the payment of rent;
- (b) whether the relation of landlord and tenant exists;

[¹] These words in square brackets, in s. 111, were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 34, in Vol. III of this Code.

[²] Printed in General Acts, 1868-78, Ed. 1909, p. 549.

[³] It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 35, in Vol. III of this Code.

(Sec. 112.)

(c) whether the land is part of a particular estate or tenancy;
or

(d) whether there is any special condition or incident of the tenancy, or whether any right of way or other easement attaches to the land.

(2) If, before the final publication of the record-of-rights in such area, a suit involving the decision of any of the issues mentioned in sub-section (1) has been instituted in a Civil Court, the Revenue-officer shall not entertain any suit under section 106 involving the decision of the same issue.

(3) Where, in the course of settling fair rents under section 105, the Revenue officer finds that, by reason of a suit involving the decision of any of the issues mentioned in sub-section (1) having been instituted in a Civil Court before the final publication of the record-of-rights, or before a Revenue-officer under section 106, is unable to settle a fair rent until such issue is decided, the Revenue-officer shall stay the proceedings, for the settlement of a fair rent, pending a final decision on the issue;

and, after the issue has been finally decided, he shall settle a fair rent, as if the record-of-rights had been framed in accordance with such decision.

(4) Where the making of an application or institution of a suit has been delayed owing to the operation of sub-section (1), the period of three months therein mentioned shall be excluded in computing the period of limitation prescribed for such suit or application.

112. (1) The Local Government, with the previous sanction of the Governor General in Council, may, on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare, Power to authorize special settlement in special cases.

[1][or that any landlord is demanding rents which have been illegally enhanced above those entered as payable in a record-of-rights prepared under this Chapter, invest a Revenue-officer]

with the following powers or either of them, namely:—

(a) power to settle all rents;

(b) power, when settling rents, to reduce rents if, in the opinion of the officer, the maintenance of existing rents would on any ground, whether specified in this Act or not, be unfair or inequitable.

[1] This clause was substituted for the words "invest a Revenue-officer acting under this Chapter" by the Bengal Tenancy (Amendment) Act, 1937 (Ben. Act I of 1937), s. 36 (1), in Vol. III of this Code.

(Secs. 111-111B.)

- (b) if the land is not comprised in an area, estate or tenure as aforesaid, and if the existing rent has been fixed by a contract binding between the parties for an unexpired term of years, the rent settled shall take effect from the expiration of that term, or from such other date after the expiration of that term as may be fixed by the Revenue-officer.

111. When an order has been made under section 101, directing the preparation of a record-of-rights, then, subject to the provisions of section 104H, a Civil Court shall not,—

- (a) where a settlement of land-revenue is being or is about to be made—until after the final publication of the record-of-rights, and
- (b) where a settlement of land-revenue is not being made or is not about to be made—until three months after the final publication of the record-of-rights,

entertain [¹][any application made under section 158, or] any suit or application for the alteration of the rent or the determination of the status of any tenant, in the area to which the record-of-rights applies.

111A. No suit shall be brought in any Civil Court in respect of any order directing the preparation of a record-of-rights under this Chapter or in respect of the framing, publication, signing or attestation of such a record or of any part of it, or, save as provided in section 104H, for the alteration of any entry in such a record of a rent settled under sections 104A to 104F:

Provided that any person who is dissatisfied with any entry in, or omission from, a record-of-rights framed in pursuance of an order made under section 101, sub-section (2), clause (d), which concerns a right of which he is in possession, may institute a suit for declaration of his right under Chapter VI^[2] of the Specific Relief Act, 1877.

^[3]**111B.** (1) Where a record-of-rights has been prepared and finally published in respect of the land in an area in which a settlement of land-revenue is not being made, or is not about to be made, no application or suit affecting such land or any tenant thereof shall, within three months from the date of the certificate of final publication of such record-of-rights, be made or instituted in any Civil Court for the decision of any of the following issues, namely:—

- (a) whether the land is or is not liable to the payment of rent;
- (b) whether the relation of landlord and tenant exists;

[¹] These words in square brackets, in s. 111, were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 34, in Vol. III of this Code.

[²] Printed in General Acts, 1868-78, Ed. 1909, p. 549.

[³] It was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 35, in Vol. III of this Code.

Stay of proceedings in Civil Court during preparation of record-of-rights.

Limitation of Jurisdiction of Civil Courts in matters, other than rent, relating to record-of-rights.

Stay of suits in which certain issues arise.

1 of

(Sec 112)

(c) whether the land is part of a particular estate or tenancy;
or

(d) whether there is any special condition or incident of the tenancy, or whether any right of way or other easement attaches to the land

(2) If, before the final publication of the record of rights in such area, a suit involving the decision of any of the issues mentioned in sub section (1) has been instituted in a Civil Court, the Revenue officer shall not entertain any suit under section 106 involving the decision of the same

(3) Where, in the course of settling fair rents under section 105, the Revenue officer finds that, by reason of a suit involving the decision of any of the issues mentioned in sub section (1) having been instituted in a Civil Court before the final publication of the record of rights, or before a Revenue officer under section 106, is unable to settle a fair rent until such issue is decided, the Revenue-officer shall stay the proceedings, for the settlement of a fair rent, pending a final decision on the issue,

and, after the issue has been finally decided, he shall settle a fair rent, as if the record of rights had been framed in accordance with such decision

(4) Where the making of an application or institution of a suit has been delayed owing to the operation of sub section (1), the period of three months therein mentioned shall be excluded in computing the period of limitation prescribed for such suit or application

112 (1) The Local Government, with the previous sanction of the Governor General in Council, may, on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare,

Power to
authorise
special
settlement in
special cases.

[¹] [or that any landlord is demanding rents which have been illegally enhanced above those entered as payable in a record-of rights prepared under this Chapter, invest a Revenue-officer]

with the following powers or either of them, namely —

(a) power to settle all rents,

(b) power, when settling rents, to reduce rents if, in the opinion of the officer, the maintenance of existing rents would on any ground, whether specified in this Act or not, be unfair or inequitable

[¹] This clause was substituted for the words 'invest a Revenue-officer acting under this Chapter by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 26 (2), in Vol. III of this Code.

(Secs. 113-114.)

(2) The powers given under this section may be made exercisable within a specified area either generally or with reference to specified cases or classes of cases.

[¹][(2a) A settlement of rents under this section shall be made in the manner provided by sections 104 to 104J (both inclusive).]

(3) When the Local Government takes any action under this section, the settlement-record prepared by the Revenue-officer shall not take effect until it has been finally confirmed by the Governor General in Council; [²][and the revision, by direction of the Board of Revenue³] under sub-section (2) of section 104G, of a record-of-rights, or any portion of a record-of-rights, prepared under this section, shall be subject to a like confirmation by the Governor General in Council.]

Period for
which rents
as settled
are to remain
unaltered.

113. (1) When the rent of a tenure or holding is settled under this Chapter, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding or the holding of an under-*raiyat* having occupancy rights, for fifteen years, and, in the case of a non-occupancy holding or the holding of an under-*raiyat* not having occupancy rights, for five years; and no such rent shall be reduced within the periods aforesaid save on the ground of alteration in the area of the holding or on the ground specified in section 38, clause (a).

(2) The said periods of fifteen years and five years shall be counted from the date on which the rent settled takes effect under this Chapter.

Expenses of
proceedings
under
Chapter.

114. (1) When the preparation of a record-of-rights has been directed or undertaken under this Chapter, in any case except where a settlement of land-revenue is being or is about to be made, the expenses incurred [⁴]* * * in carrying out the provisions of this Chapter in any local area, estate, tenure or part thereof (including expenses that may be incurred [⁵][at any time, whether before or after the preparation of the record-of-rights, in the maintenance, repair or restoration] of boundary marks and other survey marks erected for the purpose of

[¹] Sub-section (2a) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 36 (2), in Vol. III of this Code.

[²] These words in square brackets were added to section 112 (3), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 36 (3), in Vol. III of this Code.

[³] Now the Board of Revenue for Bihar and Orissa—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 10, *post*, p. 727.

[⁴] The words "by the Government," in section 114 (1), which were repealed by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (a), are omitted.

[⁵] These words in square brackets in section 114 (1) were substituted for the words "from time to time in the maintenance," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (b), in Vol. III of this Code.

(Secs. 115-115A.)

carrying out the provisions of this Chapter), or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords, tenants and occupants of land in that local area, estate, tenure or part in such proportions [¹][and in such instalments (if any)] as the Local Government, having regard to all the circumstances, may determine.

[²][(2) The estimated amount of the expenses likely to be incurred for the maintenance, repair or restoration of boundary marks for a period not exceeding fifteen years, or such part of such amount as the Local Government may direct, may be recovered in advance in the same manner as if such expenses had been already incurred.]

[³][(3) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the Government as if it were an arrear of land-revenue due in respect of the said local area, estate, tenure or part.[⁴]

[⁵][(4) The cost of preparing copies of survey maps and records-of-rights under this Chapter for distribution to landlords and tenants shall be deemed to be part of the expenses incurred in carrying out the provisions of this Chapter.]

Explanation.—The word "tenure" in this section includes all revenue-free and rent-free tenures and holdings within a local area, estate or tenure.

115. When the particulars mentioned in section 102, clause (b), have been recorded under this Chapter in respect of any tenancy, the presumption under section 50 shall not thereafter apply to that tenancy.

Presumption as to title of rent not to apply where record-of-rights has been prepared.

[⁶] 115A. In the demarcation of village boundaries for the purpose of making a survey and preparing a record-of-rights under this Chapter, a Revenue-officer shall, so far as is possible, and subject to the provisions

Demarcation of village boundaries.

[¹] The words "and in any such instalments (if any)," in s. 114 (1), were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (c), in Vol. III of this Code.

[²] This sub-section (2) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (f), in Vol. III of this Code.

[³] The original sub-section (2) was renumbered (3) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (f), in Vol. III of this Code.

[⁴] For an alternative method of recovering expenses, see the Land Records Maintenance Act, 1926 (Ben. Act 3 of 1926), ss. 21 to 22 and 36 (c), in Vol. III of this Code.

[⁵] This sub-section (4) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 37 (h), in Vol. III of this Code.

[⁶] This s. 115A was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 22, in Vol. III of this Code.

(Secs. 116-119.)

of the Bengal Survey Act, 1875,^[1] preserve, as the unit of survey and record, the area contained within the exterior boundaries of the village maps of the revenue survey, if any;

and, where village maps prepared at a previous revenue survey exist, he shall not, without the sanction of the Board of Revenue, adopt any other area as such unit.

CHAPTER XI.

[²][NON-ACCRUAL OF OCCUPANCY AND NON-OCCUPANCY RIGHTS AND] RECORD OF PROPRIETORS' PRIVATE LANDS.

116. Nothing in Chapter V shall confer a right of occupancy in, and nothing in Chapter VI shall apply to,

[³][lands acquired under the Land Acquisition Act, 1894^[4] for the Government or for any Local Authority or for a Railway Company, or lands belonging to the Government within a Cantonment, while such lands remained the property of the Government, or of any Local Authority or Railway Company, or to]

a proprietor's private lands known in Bengal as *khamar*, *nij* or *nijjot*, [and in Bihar as *zirdat*, *nij*, *sir* or *khamat*], where any such land is held under a lease for a term of years or under a lease from year to year.

117. The Local Government may, from time to time, make an order directing a Revenue-officer to make a survey and record of all the lands in a specified local area which are a proprietor's private lands within the meaning of the last foregoing section.

118. In the case of any land alleged to be a proprietor's private land, on the application of the proprietor or of any tenant of the land, and on his depositing the required amount for expenses, a Revenue-officer may, subject to, and in accordance with, rules made in this behalf by the Local Government, ascertain and record whether the land is or is not a proprietor's private land.

119. When a Revenue-officer proceeds under either of the two last foregoing sections, the provisions of [⁵][sections 103A, 103B, 106, 107, 108, 109 and 109A] shall apply.

[¹] Printed in Vol. II of this Code.

[²] These words in square brackets were prefixed to this heading by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 39, in Vol. III of this Code.

[³] These words in square brackets in s. 116 were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 40, Vol. III of this Code.

[⁴] Printed in the General Acts, 1887-97, Ed. 1909, p. 363.

[⁵] These words and figures in square brackets in s. 119 were substituted for the words and figures "ss. 105 to 109, both inclusive," by the Bengal Tenancy (Amendment) Act, 1898 (Ben. Act 3 of 1898), s. 10, in Vol. III of this Code.

Saving as to certain lands.

Power for Government to order survey and record of proprietor's private lands.

Power for Revenue-officer to record private land on application of proprietor or tenant.

Procedure for recording private land.

(Secs. 120-121.)

120. (1) The Revenue-officer shall record as a proprietor's private land—

Rules for
d termination
of proprietor's
private land.

(a) land which is proved to have been cultivated as *khamar*, [*zirdat, sir,*] *nij, nijjot* [or *kamat*] by the proprietor himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the passing of this Act, and

(b) cultivated land which is recognized by village usage as proprietor's *khamar*, [*zirdat, sir,*] *nij, nijjot* [or *kamat*].

(2) In determining whether any other land ought to be recorded as a proprietor's private land, the officer shall have regard to local custom, and to the question whether the land was, before the second day of March, 1883, specifically let as proprietor's private land, and to any other evidence that may be produced; but shall presume that land is not a proprietor's private land until the contrary is shown.

[1] [(2a) Notwithstanding anything contained in any agreement or compromise, or in any decree which is proved to his satisfaction to have been obtained by collusion or fraud, a Revenue-officer shall not record any land as a proprietor's private land, unless it is proved to be such by satisfactory evidence of the nature described in sub-section (1) or sub-section (2)].

(3) If any question arises in a Civil Court as to whether land is or is not a proprietor's private land, the Court shall have regard to the rules laid down in this section for the guidance of Revenue-officers.

[1] CHAPTER XII.

DISTRRAINT.

121. Where an arrear of rent is due to the landlord of a *raiyat* or *under-raiyat*, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the Civil Court requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,—

Crops with an
application
for distrain-
ment made.

(a) any crops or other products of the earth standing or ungathered on the holding;

[1] Sub-section (2a) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (then Act I of 1907), s. 41, in Vol. III of this Code.

[2] The word "rent" in Chapter XII includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *etc.*, p. 423.

(Sec. 122.)

- (b) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-floor or place for treading out grain, or the like, whether in the fields or within a homestead :

Provided that an application shall not be made under this section—

- (1) by a proprietor or manager as defined under the Land Registration Act, 1876^[1], or a mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act; or
- (2) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed; or
- (3) in respect of the produce of any part of the holding which the tenant has sub-let with the written consent of the landlord.

Form of
application.

122. (1) Every application under the last foregoing section shall specify—

- (a) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification;
- (b) the name of the tenant;
- (c) the period in respect of which the arrear is claimed;
- (d) the amount of the arrear, with the interest, if any, claimed thereon and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the contract or proceeding, as the case may be, under which that amount is payable;
- (e) the nature and approximate value of the produce to be distrained;
- (f) the place where it is to be found, or such other particulars as may suffice for its identification; and
- (g) if it is standing or ungathered, the time at which it is likely to be cut or gathered.

(Secs. 123-125.)

(2) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure^[1] for the signing and verification of plaints.

123. (1) The applicant shall, at the time of filing an application under the foregoing sections, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application. Procedure on receipt of application.

(2) The Court may, if it thinks fit, examine the applicant, and shall, with as little delay as possible, admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

(3) Where a Court cannot forthwith admit or reject an application under sub-section (2), it may, if it thinks fit, make an order prohibiting the removal of the produce specified in the application pending the execution of an order for distraining the same or the rejection of the application.

(4) When an order for distraining any produce is made under this section at a considerable time before the produce is likely to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, if it thinks fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

124. If an application is admitted under the last foregoing section the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in his behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the High Court: Execution of order for distraint.

Provided that produce which from its nature does not admit of being stored shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

125. (1) The distraining officer shall, at the time of making the distraint, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made. Serve of demand and account.

(2) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

^[1] Act 14 of 1902 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to that Ordinance & 153 thereof, in General Acts, 1904 CG, Ed. 1907, p. 131.

(Secs. 126-129.)

(3) The demand and account shall, if practicable, be served personally; but, if a person on whom they are to be served absconds or conceals himself or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

Right to
reap, etc.,
produce.

126. (1) A distraint under this Chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

(2) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood, or shall do whatever else may be necessary for the due preservation of the same.

(3) In either case the distrained property shall remain in the charge of the distraining officer, or of some other person appointed by him in this behalf.

Sale pro-
clamation to
be issued
unless de-
mand is
satisfied.

127. (1) Unless the demand, with all costs of the distraint, be immediately satisfied, the distraining officer shall issue a proclamation specifying the particulars of the property distrained, and the demand for which it is distrained, and notifying that he will, at a place and on a day specified, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction:

Provided that when the crops or products distrained from their nature admit of being stored, but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

Place of sale:

128. The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage.

When pro-
duce may
be sold
standing,

129. (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any person

(Secs. 130-136.)

appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

130. The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable; and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property the distraint shall be immediately withdrawn with respect to the remainder. Manner of sale.

131. If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorized to act in his behalf, applies to have the sale postponed till the next day, or (if a market is held at the place of sale) the next market-day, the sale shall be postponed until that day, and shall be then completed, whatever price may be offered for the property. Postponement of sale.

132. The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold. Payment of purchase-money.

133. When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid. Certificate to be given to purchaser.

134. (1) From the proceeds of every sale of distrained property under this Chapter, the officer holding the sale shall pay the costs of the distraint and sale, calculated on a scale of charges prescribed by rules^[1] to be made, from time to time, by the Local Government in this behalf. Proceeds of sale how to be applied.

(2) The remainder shall be applied to the discharge of the arrears for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

135. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers. Certain persons may not purchase.

136. (1) If at any time after a distraint has been made under this Chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property, where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 125, with all costs which may have been incurred after the Procedure where demand is paid before the sale.

[1] For rules made under s. 134 (1), see the Bihar and Orissa Local Self-Government Rules and Orders, Vol. I, Part IV.

(Secs. 137-139.)

service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same, and the distraint shall forthwith be withdrawn.

(2) When the distraining officer receives the deposit, he shall forthwith pay it into the Court.

(3) A receipt granted under this section to an owner of distrained property not being the defaulter, shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(4) After the expiration of one month from the date of a deposit being made under this section, the Court shall pay therefrom to the applicant for distraint the amount due to him, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

(5) A landlord shall not be deemed to have consented to his tenant's sub-letting the holding or any part thereof merely by reason of his having received an amount deposited under this section by an inferior tenant.

Amount paid
by under-
tenant for
his lessor
may be
deducted
from rent!

137. (1) When an inferior tenant, on his property being lawfully distrained under this Chapter for the default of a superior tenant, makes any payment under the last foregoing section, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under the last foregoing section to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

Conflict
between
rights of
superior and
inferior
landlords.

138. When land is sub-let, and any conflict arises under this Chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Distrait of
property
which is
under
attachment!

139. When any conflict arises between an order for distraint issued under this Chapter and an order issued by a Civil Court for the attachment or sale of the property, which is the subject of the distraint, the order for distraint shall prevail; but if the property is sold under that order, the surplus proceeds of the sale shall not be paid under section

(Secs. 140-143.)

134 to the owner of the property without the sanction of the Court by which the order of attachment or sale was issued.

140. No appeal shall lie from any order passed by a Civil Court under this Chapter; but any person whose property is distrained on an application made under section 121, in any case in which such an application is not permitted by that section, may institute a suit against the applicant for the recovery of compensation. Suit for compensation for wrongful distraint.

141. (1) When the Local Government is of opinion that in any local area or in any class of cases it would, by reason of the character of the cultivation or the habits of the cultivators, be impracticable for a landlord to realize his rent by an application under this Chapter to the Civil Court, it may, from time to time, by order, authorize the landlord to distrain, by himself or his agent, any produce for the distraint of which he would be entitled to apply under this Chapter to the Civil Court: Power for Local Government to authorize distraint in certain cases.

Provided that every person distraining any produce under such authorization shall proceed in the manner prescribed by section 124, and shall forthwith give notice, in such form as the High Court may, by rule, prescribe, to the Civil Court having jurisdiction to entertain an application for distraining the produce, and that Court shall, with no avoidable delay, depute an officer to take charge of the produce distrained.

(2) When an officer of the Court has taken charge of any distrained produce under this section, the proceedings shall thereafter be conducted in all respects as if he had distrained it under section 121.

(3) The Local Government may at any time rescind any order made by it under this section.

142. The High Court may, from time to time, make rules, [1] consistent with this Act, for regulating the procedure in all cases under this Chapter. Power for High Court to make rules.

[2] CHAPTER XIII.

JUDICIAL PROCEDURE.

143. (1) The High Court may, from time to time, with the approval of the Governor General in Council, make rules, [2] consistent with this Power to make rules by High Court in its appellate jurisdiction.

[1] For rules made under s. 142, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[2] As to the application of ss. 143 to 145, see also s. 151A, post, p. 560.

[3] For rules made under s. 143, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

(Secs. 144-147.)

Act, declaring that any portions of the Code of Civil Procedure^[1] shall not apply to suits between landlord and tenant as such or to any specified classes of such suits, or shall apply to them subject to modifications specified in the rules.

(2) Subject to any rules so made, and subject also to the other provisions of this Act, the Code of Civil Procedure^[1] shall apply to all such suits.

Jurisdiction
in proceed-
ings under
Act.

144. (1) The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure^[1], be deemed to have arisen within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the suit is brought.

(2) When under this Act a Civil Court is authorised to make an order on the application of a landlord or a tenant, the application shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the application is brought.

Naibs or
gumashitas
to be re-
cognized
agents.

145. Every naib or gumashita of a landlord empowered in this behalf by a written authority under the hand of the landlord, shall, for the purposes of every such suit or application, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure^[1] notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending, or in which the application is made.

Special
register of
suits.

146. The particulars referred to in section 58 of the Code of Civil Procedure^[2] shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form^[3] as the Local Government may, from time to time, prescribe in this behalf.

Successive
rent-suits.

147. Subject to the provisions of section 373 of the Code of Civil Procedure^[4] where a landlord has instituted a suit against a *raiyat* for

[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[2] This reference should now be taken to be made to rule 2 in Order IV and rule 1 in Order VII in Schedule I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[3] For an order made under s. 146, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[4] This reference should now be taken to be made to rule 1 in Order XXIII in Schedule I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Sec. 147A.)

the recovery of any rent of his holding, the landlord shall not institute another suit against him for the recovery of any rent of that holding until after three months from the date of the institution of the previous suit.

[¹]147A: (1) The provisions of section 375 of the Code of Civil Procedure⁽²⁾ shall not apply to any suit between landlord and tenant as such.

Compromise of suits between landlord and tenant.

(2) If any suit between landlord and tenant as such is adjusted wholly or in part by any lawful agreement or compromise, or if the defendant satisfies the plaintiff in respect to the whole or any part of the matter of the suit, the Court shall pass a decree in accordance with such agreement, compromise or satisfaction, so far as it relates to the suit:

Provided that no decree shall be passed in accordance with any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act.

(3) Where any agreement or compromise has been made for the purpose of settling a dispute as to the rent payable, the Court shall,

in order to ascertain whether the effect of such agreement or compromise would be to enhance the rent in a manner, or to an extent, not allowed by section 29 in the case of a contract,

record evidence as to the rent which was legally payable immediately before the period in respect of which the dispute arose.

(4) Where the terms of any agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, the Court shall not pass a decree in accordance with such agreement or compromise, unless and until it is satisfied by evidence that the statements made by the parties thereto are correct.

Illustration.—A, a proprietor, agrees that B, his tenant, shall be recorded as an occupancy riyat. This affects the rights of the tenants of B. The Court must, under subsection (1), inquire whether B is a tenure holder or a riyat as defined in section 5. If the Court finds on the evidence that B is a riyat, it may pass a decree in accordance with the agreement, but shall not do so if it finds that B is a tenure holder.

(5) A decree passed in accordance with any lawful agreement, compromise or satisfaction shall be final so far as it relates to so much of

[¹] This s. 147A was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Fen. Act I of 1907), s. 42, in Vol. III of this Code.

[²] The reference should now be taken to be made to rule 3 in Order XXIII in Schedule I to the Code of Civil Procedure, 1908 (Act 5 of 1908) s. 153 thereof, in General Acts, 1908, Pt. 1907, p. 161.

(Secs. 147B-148.)

the subject-matter of the suit as is dealt with by such agreement, compromise or satisfaction.

Regard to be had by Civil Courts to entries in record-of-rights.

[¹]147B. In all areas for which a record-of-rights has been prepared and finally published under sub-section (2) of section 103A, a Civil Court shall, in all suits between landlord and tenant as such, have regard to the entries in such record-of-rights relating to the subject-matter in dispute which may be produced before it, unless such entries have been proved by evidence to be incorrect; and, when a Civil Court passes a decree at variance with such entries, it shall record its reasons for so doing.

Procedure in rent suits.

148. The following rules shall apply to suits for the recovery of rent:—

- (a) sections 121 to 127 (both inclusive), 129, 305 and 320 to 326 (both inclusive) of the Code of Civil Procedure^[2] shall not ^{14 of} apply to any such suit:
- (b) the plaint shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure,^[3] a statement ^{14 of} of the situation, designation, extent and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the extent or boundaries, in lieu thereof a description sufficient for identification:

[⁴](b1) where the suit is for the rent of land situated within an area for which a record-of-rights has been prepared and finally published, the plaint shall further contain a list of the survey plots comprised in the tenancy and a statement of the rental of the tenancy according to the record-of-rights, unless the Court is satisfied, for reasons to be recorded in writing, that the plaintiff was prevented by any sufficient cause from furnishing such list or statement:

Provided that, in all cases in which the Court admits a plaint which does not contain such statement, the Court shall, and in any other case in which it sees fit the Court may, require

[¹] S. 147B was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 42, in Vol. III of this Code.

[²] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to ss. 68, 70, 71 and 72 of, and to rules 1 to 13 in Order XI, rule 83 in Order XXI, and rule 2 in Order XLVIII, in Schedule I, and to Schedule III, to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[³] This reference should now be taken to be made to rules 1 to 8 in Order VII in Schedule I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158, thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[⁴] This clause (b1) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 43 (1), in Vol. III of this Code.

(Sec. 148)

the Collector to supply, without payment of fee, a verified or certified copy of, or extract from, the record-of-rights relating to the tenancy ;

[¹](b2) where an alteration has been made in the area of the tenancy since the record-of-rights was prepared and finally published, the plaint shall further contain a statement of the rental of the original tenancy according to the record-of-rights, together with a statement showing how the amount of rent claimed in the suit has been computed :

(c) the summons shall be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only :

(d) the service of the summons may, if the High Court by rule, either generally, or specially for any local area, so directs, be effected either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post Office Act, 1866 [²]

when a summons is so forwarded in a letter, and it is proved that the letter was duly posted and registered, the Court may presume that the summons has been duly served

(e) a written statement shall not be filed without the leave of the Court -

(f) the rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure [³] shall apply, whether an appeal is allowed or not

[⁴](f) when any account books, rent rolls, collection-papers, measurement papers or maps have been produced by the landlord before any Court, and have been admitted in evidence in a suit pending therein,

[¹] Clause (b2) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 43 (1), in Vol. III of this Code.

[²] Act 14 of 1866 has been repealed and re-enacted by the Indian Post Office Act, 1879 (6 of 1879), and this reference should now be construed as a reference to Chapter VI of the latter Act (in General Acts, 1879-83, Ed. 1909 p. 321)—see the General Clauses Act, 1877 (10 of 1877) s. 8 (in *ibid* 1837-97, Ed. 1909 p. 57).

[³] Act 14 of 1872 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908) and this reference should now be taken to be made to rule 13 in Order XV III in Schedule I to that Code—see s. 142 thereof, in General Acts, 1904-07, Ed. 1907 p. 184.

[⁴] This clause (f) was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 43 (f), in Vol. III of this Code.

(Secs. 148A-149.)

copies of, or extracts from, such documents, certified by a duly authorized officer of such Court to be true copies or extracts, may, with the permission of the Court, be substituted on the record for the originals; which may then be returned to the landlord;

and thereafter copies and extracts, so certified, may be admitted in evidence in any other suit instituted in the same or any other Court, unless the Court before which they are produced sees fit to require the production of the originals:

(g) the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof, unless it is a decree for ejectment for arrears:

(h) notwithstanding anything contained in section 232 of the Code of Civil Procedure,^[1] an application for the execution ^{14 of 1882} of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become and is vested in him.

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rears of
nt by
-sharer
landlords.

[²]148A. Where a co-sharer landlord who has instituted a suit to recover the rent due to all the co-sharer landlords in respect of an entire tenure or holding, and has made all the remaining co-sharers parties defendant to the suit, is unable to ascertain what rent is due for the whole tenure or holding, or whether the rent due to the other co-sharer landlords has been paid or not, owing to the refusal or neglect of the tenant, or of the co-sharer landlords defendant to the suit, to furnish him with correct information on these points, or on either of them,

such plaintiff co-sharer landlord shall be entitled to proceed with the suit for his share only of the rent;

and a decree obtained by him in a suit so framed shall, as regards the remedies for enforcing the same, be as effectual as a decree obtained by a sole landlord or an entire body of landlords in a suit brought for the rent due to all the co-sharers.

149. (1) When a defendant admits that money is due from him on account of rent; but pleads that it is due not to the plaintiff, but to a

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to Court of
oney admit-
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erson.

[¹] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 16 in Order XXI in Schedule I to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[²] This s. 148A was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 44, in Vol. III of this Code.

(Secs 150 153)

third person, the Court shall[¹] refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.²

(2) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment out of the money, it shall be paid out to the plaintiff on his application

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub section (3).

150. When a defendant admits that money is due from him to the plaintiff on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court shall[²] refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due Payment into Court of money admitted to be due to landlord.

151. When a defendant is liable to pay money into Court under either of the two last foregoing sections, if the Court thinks that there are sufficient reasons for so ordering, it may take cognizance of the defendant's plea on his paying into Court such reasonable portion of the money as the Court directs Provision as to payment of portion of money

152. When a defendant pays money into Court under either of the said sections, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be Receipt to be given to defendant

153. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal, in any suit instituted by a landlord for the recovery of rent where— Appeals from suits for rent

- (a) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or
- (b) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees;

[¹] The words "except for special reasons to be recorded in writing" in section 152 (1), which were repealed by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 43, are omitted.

[²] The words "except for special reasons to be recorded in writing" in section 153, which were repealed by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act I of 1907), s. 43, are omitted.

(Secs. 153A-154.)

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant, or a question of the amount of rent annually payable by a tenant:

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, if it appears that the judicial officer has exercised a jurisdiction not vested in him by law, or has failed to exercise a jurisdiction so vested or has acted in the exercise of his jurisdiction illegally or with material irregularity, and may pass such order as the District Judge thinks fit.

[¹] *Explanation.*—A question as to the regularity of the proceedings in publishing or conducting a sale in execution of a decree for arrears of rent is not a question relating to title to land or to some interest in land as between parties having conflicting claims thereto.]

Deposit on application to set aside *ex parte* decree.

[²] **153A.** Every application for an order under section 108 of the Code of Civil Procedure[³] to set aside a decree passed *ex parte*, or for a 14 of review of judgment, under section 623 of the said Code,[⁴] in a suit between a landlord and tenant as such, shall contain a statement of the injury sustained by the applicant by reason of the decree or judgment; and no such application shall be admitted—

(a) unless the applicant has, at or before the time when the application is admitted, deposited in the Court to which the application is presented the amount if any, which he admits to be due from him to the decree-holder, or such amount as the Court may, for reasons to be recorded by it in writing, direct; or

(b) unless the Court, after considering the statement of injury, is satisfied, for reasons to be recorded by it in writing, that no such deposit is necessary.

Date from which decree for enhancement takes effect.

154. A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall

[¹] This *Explanation* was added to section 153, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 46.

[²] S. 153A was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 47, in Vol. III of this Code.

[³] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 13 in Order IX in Sch. I to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[⁴] This reference should now be taken to be made to rule 1 in Order XLVII in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Secs. 155-156.)

ordinarily take effect on the commencement of the agricultural year next following; and, if passed in a suit instituted in the last four months of the agricultural year,[¹] shall ordinarily take effect on the commencement of the agricultural year next but one following; but nothing in this section shall prevent the Court from fixing, for special reasons, a later date from which any such decree shall take effect.

155. (1) A suit for the ejectment of a tenant, on the ground—

Relief
against forfeiture.

- (a) that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or
- (b) that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment,

shall not be entertained unless the landlord has served, in the prescribed manner, a notice on the tenant specifying the particular misuse or breach complained of, and, where the misuse or breach is capable of remedy, requiring the tenant to remedy same, and, in any case, to pay reasonable compensation for the misuse or breach, and the tenant has failed to comply within a reasonable time with that request.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, for special reasons, extend a period fixed by it under sub-section (2).

(4) if the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.

156. The following rules shall apply in the case of every raiyat ejected from a holding:—

Rights of
ejected
raiya to
compensation
for crops and
land prepared
for sowing.

- (a) when the raiyat has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose

[¹] For definition of "agricultural year," see s. 3 (11), Act, p. 454.

(Secs. 157-158.)

of tending and gathering in the crops, or, to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment;

(b) when the *raiyat* has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value;

(c) but a *raiyat* shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section where, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage; and

(d) if the landlord elects under this section to allow a *raiyat* to retain possession of the land, the *raiyat* shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

Power for
Court to fix
fair rent as
alternative
to ejectment.

157. When a plaintiff institutes a suit for the ejectment of a trespasser he may, if he thinks fit, claim as alternative relief that the defendant be declared liable to pay for the land in his possession a fair and equitable rent to be determined by the Court, and the Court may grant such relief accordingly.

Application
to determine
incidents
of tenancy.

158. (1) [1] [Subject to the provisions of section 111,] the Court having jurisdiction to determine a suit for the possession of land may, on the application of either the landlord or the tenant of the land, determine all or any of the following matters, namely:—

- (a) the situation, quantity and boundaries of the land;
- (b) the name and description of the tenant thereof (if any);
- (c) the class to which he belongs, that is to say, whether he is a tenure-holder, *raiyat* holding at fixed rates, occupancy-*raiyat*, non-occupancy-*raiyat*, or under-*raiyat*, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure; and
- (d) the rent payable by him at the time of the application.

[1] These words in square brackets in s. 158 (1) were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 48, in Vol. III of this Code.

(Sec 158A.)

(2) If, in the opinion of the Court, any of these matters cannot be satisfactorily determined without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure^[1] by such Revenue officer as the Local Government may authorize in that behalf by rule made under section 392^[2] of the said Code.

(3) The order on any application under this section shall have the effect of, and be subject to the like appeal as, a decree.

[1]CHAPTER XIII.A.

SUMMARY PROCEDURE FOR THE RECOVERY OF RENTS UNDER THE BIHAR AND ORISSA PUBLIC DEMANDS RECOVERY ACT, 1914 [4]

158A. (1) Any landlord (other than the Government) whose land is situate in an area for which a record-of-rights has been prepared and finally published, and in which such record is maintained,

Recovery of arrears by the certified procedure in certain areas.

may apply to the Local Government,^[5] through the Collector of the district in which his land is situate, for the application of the procedure prescribed by the Bihar and Orissa Public Demands Recovery Act, 1914,^[6] to the recovery of the arrears of rent which he alleges are, or may accrue, due to him for lands in such area

(2) The Local Government^[7] may reject any such application, or may allow it subject to such terms and conditions as it may see fit to impose, and may at any time add to or vary any terms or conditions so imposed, or withdraw its allowance of the application, without, in any of these cases, assigning any reason for its action.

[1] Act 14 of 1902 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908) and this reference should now be taken to be made to s. 73 of, and Order XXV in Sch. I to, that Code—see s. 153 thereof, in General Acts, 1904-09, Ed. 1909 p. 151

[2] This reference should now be taken to be made to rule 9 in Order XXVI in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 153 thereof, in General Acts, 1904-09, Ed. 1909 p. 151

[3] Chapter XIII.A (s. 153A) was inserted in Bihar and Orissa, by the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), s. 67, in Vol. III of the Code

[4] Printed in Vol. III of this Code

[5] Now the Lieutenant-Governor in Council of Bihar and Orissa—see the Bengal, Bihar & Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 2 and 9, p. 11, p. 77

[6] Act 14 of 1902 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908) and this reference should now be taken to be made to rules 16 and 15 in Order VI in Sch. I to that Code—see s. 153 thereof, in General Acts, 1904-09, Ed. 1909, p. 151

(Sec. 158A.)

(3) When any such application has been allowed, the landlord may make a requisition in writing, in the form prescribed, to such Revenue-officer as the Local Government may appoint, for the purpose of this section, to perform the functions of a Certificate Officer under the Bihar B. & Orissa Public Demands Recovery Act, 1914,^[2] for the recovery of ^{4 of 1} any arrears of rent which he alleges are due to him from any tenant.

(4) Every such requisition shall be signed and verified by the landlord making it in the manner prescribed by rule I in Schedule II to the said Act, as amended for the time being by rules made under section 39 thereof, and shall be chargeable with a fee of the amount which would be payable under the Court-fees Act, 1870, ^{7 of 1} [3] in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.

(5) On receipt of any such requisition, the said Revenue-officer may, in accordance with such rules as the Local Government^[1] may prescribe in this behalf, and if he is satisfied that the arrear is due, sign a certificate, in the prescribed form, stating that the arrear is due; and shall include in the certificate—the fee paid under sub-section (4) and shall cause the certificate to be filed in his office:

Provided that—

(a) no certificate shall be signed for the recovery of arrears of rent of a tenancy regarding which a suit has been instituted in a Civil Court for the alteration of the rent payable by the tenant or the determination of his status as a tenant, in respect of the period during which it is alleged in the requisition made under sub-section (3) that the arrears of rent sought to be recovered have accrued; and

(b) if, after the signing of a certificate, it is found that such a suit was instituted in a Civil Court before the certificate was signed, such certificate shall be cancelled.

(6) The person in whose favour any certificate is signed under sub-section (5) shall be deemed to be the certificate-holder for the amount mentioned in the certificate, and the person against whom the certificate is signed shall be deemed to be the certificate debtor for the said amount; and all the proceedings taken by the certificate officer for the recovery of

[1] Now the Lieutenant-Governor in Council of Bihar and Orissa—see footnote [1] on p. 543, *ante*.

[2] Printed in Vol. III of this Code.

[3] Printed in the General Acts, 1868-78, Ed. 1909, p. 102.

(Secs. 159-160.)

(ii) the entire body of landlords; or

(iii) one or more co-sharer landlords who has or have sued for the rent due to all the co-sharers in respect of the entire tenure or holding and made all the remaining co-sharers parties defendant to the suit, or if such certificate was signed on the requisition of or in favour of, a sole landlord or the entire body of landlords.

(2) When one or more co-sharer landlords, having obtained a decree in a suit framed under sub-section (1) or under section 148A, applies, or apply, for the execution of the decree by the sale of the tenure or holding, the Court shall, before proceeding to sell the tenure or holding, give notice of the application for execution to the other co-sharers.

General powers of purchaser as to avoidance of incumbrances.

159. Where a tenure or holding is sold in execution of a decree for arrears due in respect thereof, the purchaser shall take subject to the interests defined in this Chapter as “protected interests,” but with power to annul the interests defined in this Chapter as “incumbrances”:

Provided as follows:—

- (a) a registered and notified incumbrance within the meaning of this Chapter shall not be so annulled except in the case hereinafter mentioned in that behalf;
- (b) the power to annul shall be exercisable only in manner by this Chapter directed.

Protected interests.

160. The following shall be deemed to be protected interests within the meaning of this Chapter:—

- (a) any under-tenure existing from the time of the Permanent Settlement;
- (b) any under-tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;
- (c) any lease of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made;
- (d) any right of occupancy;
- (e) the right of a non-occupancy-*raiyat* to hold for five years at a rent fixed under Chapter VI by a Court, or under Chapter X by a Revenue-officer;
- (f) any right conferred on an occupancy-*raiyat* to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(Secs 161 163)

(g) any right or interest which the landlord at whose instance the tenure or holding is sold, or his predecessor in title, has expressly and in writing given the tenant for the time being permission to create

161 For the purposes of this Chapter —

Meaning of
incum-
brance and

(a) the term "incumbrance," used with reference to a tenancy, means any lien, sub tenancy, easement or other right or interest created by the tenant on his tenure or holding or in limitation of his own interest therein, and not being a protected interest as defined in the last foregoing section,

(b) the term "registered and notified incumbrance," used with reference to a tenure or holding sold or liable to sale in execution of a decree for an arrear of rent due in respect thereof, means an incumbrance created by a registered instrument, of which a copy has, not less than three months before the accrual of the arrear, been served on the landlord in manner herein after provided,

"re-stered
ar notified
incum-
brance"

[1](c) the terms "arrears" and "arrear of rent" shall be deemed to include interest decreed under section 67 or damages awarded in lieu of interest under sub section (f) of section 68]

852. 162 When a decree has been passed for an arrear of rent due for a tenure or holding, and the decree holder applies under section 245 of the Code of Civil Procedure[2] for the attachment and sale of the tenure or holding in execution of the decree, he shall produce a statement showing the *pargana*, estate and village in which the land comprised in the tenure or holding is situate the yearly rent payable for the same and the total amount recoverable under the decree

Ap 1 and a
for sale of
tenure or
holding

852. 163 (f) Notwithstanding anything contained in the Code of Civil Procedure [2] when the decree holder makes the application mentioned in the last foregoing section, the Court shall if under section 245 of the said Code[2] it admits the application and orders execution of the decree

attach ment
and sale
of tenure
or holding
in execution
of decree

[1] Clause (c) was added to s. 161 by the Bengal Tenancy (Amendment) Act 1927 (Ben. Act 1 of 1927) s. 51 in Vol. III of this Code.

[2] Act 14 of 1908 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908) and the reference shall now be taken to be made to s. 11 (7) in Order XXI in Vol. I to that Code—see s. 153 thereof in General Acts 1908 (C) Ed. 1927 p. 151.

[3] The reference shall now be taken to be made to the Code of Civil Procedure 1908 (Act 5 of 1908) s. 113 thereof in General Acts 1908 (C) 11 (7) p. 11.

[4] This reference shall now be taken to be made to s. 17 in Order XXI in Vol. I to the Code of Civil Procedure 1908 (Act 5 of 1908) s. 170 thereof in General Acts 1908 (C) 11 (7) p. 171.

(Sec. 164.)

as applied for, issue simultaneously the order of attachment and the proclamation required by section 287 of the said Code.^[1]

(2) The proclamation shall, in addition to stating and specifying the particulars mentioned in section 287 of the said Code^[2] announce— 14

(a) in the case of a tenure or a holding of a *raiyat* holding at fixed rates, that the tenure or holding will first be put up to auction subject to the registered and notified incumbrances, and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will, if the decree-holder so desires, be sold on a subsequent day, of which due notice will be given with power to annul all incumbrances; and

(b) in the case of an occupancy-holding, that the holding will be sold with power to annul all incumbrances.

(3) The proclamation shall, besides being made in the manner prescribed by section 289 of the said Code^[3] be published by fixing up a 14 copy thereof in a conspicuous place on the land comprised in the tenure or holding ordered to be sold, and shall also be published in such manner as the Local Government may, from time to time, direct^[4] in this behalf.

(4) Notwithstanding anything contained in section 290 of the said Code,^[5] the sale shall not, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days, calculated from the date on which the copy of the proclamation has been fixed up on the land comprised in the tenure or holding ordered to be sold.

Sale of tenure or holding subject to registered and notified incumbrances, and effect thereof.

164. (1) When tenure of holding at fixed rates has been advertised for sale under the last foregoing section, it shall be put up to auction subject to registered and notified incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs,

[1] This reference should now be taken to be made to ss. 129 and 131 of, and rules 66 and 70 in Order XXI in Sch. I to, the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[2] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to ss. 129 and 131 of, and rules 66 and 70 in Order XXI in Sch. I to, that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[3] This reference should now be taken to be made to rule 67 in Order XXI of Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[4] For an order made under s. 163 (3), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[5] This reference should now be taken to be made to rule 68 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Secs 165 167)

including the costs of sale, the tenure or holding shall be sold subject to such incumbrances

(2) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance upon the tenure or holding not being a registered and notified incumbrance

165. (1) If the bidding for a tenure or a holding at fixed rates put up to auction under the last foregoing section does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree holder thereupon desires that the tenure or holding be sold with power to avoid all incumbrances, the officer holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure,^[1] announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement, and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances

(2) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance on the tenure or holding

166. (1) When an occupancy holding has been advertised for sale under section 163, it shall be put up to auction and sold with power to avoid all incumbrances

(2) The purchaser at a sale under this section may, in manner provided by the next following section, and not otherwise, annul any incumbrance on the holding

167. (1) A purchaser having power to annul an incumbrance under any of the foregoing sections [or under the Bihar and Orissa Public Demands Recovery Act, 1914]^[2] and desiring to annul the same, may, within one year from the date of the sale or the date on which he first has notice of the incumbrance, whichever is later, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled

(2) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf

[1] Act 14 of 1902 has been repealed and re-enacted by the Code of Civil Procedure 1908 (Act 5 of 1908), and the reference should now be taken to be made to sec 67 in Order XXI in Sch. I to that Code—see a 1908 amend. in Criminal Arts 10409 F1 129 1 161

[2] Inserted by the Bihar and Orissa Public Demands Recovery Act 1914 (P. and O. Act 4 of 1914), in Vol. III of this Code.

(Secs. 168-169.)

(3) When an application for service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served.

(4) When a tenure or holding is sold in execution of a decree [or a certificate signed under the Bihar and Orissa Public Demands Recovery Act, 1914]^[1] for arrears due in respect thereof, and there is on the tenure or holding a protected interest of the kind specified in section 160, clause (c), the purchaser may, if he has power under this Chapter or that Act, to avoid all incumbrances, sue to enhance the rent of the land which is the subject of the protected interest. On proof that the land is held at a rent which was not at the time the lease was granted a fair rent, the Court may enhance the rent to such amount as appears to be fair and equitable.

This sub-section shall not apply to land which has been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Power to direct that occupancy-holdings be dealt with under foregoing section as tenures.

168. (1) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings or any specified class of occupancy-holdings in any local area put up for sale in execution of ^[2][a decree for an arrear of rent] due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered and notified incumbrances, and may by like notification rescind any such direction.

(2) While any such direction remains in force in respect of any local area, all occupancy-holdings, or, as the case may be, occupancy-holdings of the specified class in that local area, shall, for the purposes of sale under the foregoing sections of this Chapter, be treated in all respects as if they were tenures.

Rules for disposal of the sale-proceeds.

169. (1) In disposing of the proceeds of a sale under this Chapter, the following rules, instead of those prescribed by section 295 of the Code of Civil Procedure^[3], shall be observed, that is to say:—

14 of 1

- (a) there shall first be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale;

[1] Inserted by the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), in Vol. III of this Code.

[2] These words in square brackets in s. 168 (1) were substituted for the words "decrees for rent," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), in Vol. III of this Code.

[3] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1903), and this reference should now be taken to be made to s. 73 of that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Sec. 170.)

- (b) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made;
- (c) if there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the tenure or holding between the institution of the suit and the date of [1][the confirmation of] the sale,
- (d) the balance (if any) remaining after the payment of the rent mentioned in clause (c) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application:

[2][Provided that, where a tenure or holding has been sold in execution of a decree obtained by one or more co-sharer landlords in a suit framed under section 148A or sub-section (1) of section 158B,—

- (i) payment of the amount due under such decree shall, notwithstanding anything contained in clause (b), be made to the decree-holder and to the other co-sharer landlords in proportion to the amount found to be due to each, and,
- (ii) if there remains a balance, payment of any rent which may have fallen due in respect of the tenure or holding between the institution of the suit and the date of the confirmation of the sale shall, notwithstanding anything contained in clause (c), but subject to the determination, in the manner and with the effect mentioned in sub-section (2), of any dispute as to their respective rights to receive such rent, be made to the said decree-holder and the other co-sharer landlords in proportion to their respective shares in the tenure or holding.]

(2) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (c), the Court shall determine the dispute, and the determination shall have the force of a decree.

170. (1) Sections 275 to 281 (both inclusive) and 310A^[1] of the Code of Civil Procedure^[2] shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon.

[1] These words in square brackets in s. 170 (c) were inserted by the Bengal Tenancy Amendment (Amendment) Act, 1907 (Ben. Act I of 1907), s. 53 (2), in Vol. III of the Code.

[2] The expression was altered to s. 170 (1) by the Bengal Tenancy Amendment Act, 1907 (Ben. Act I of 1907), s. 53 (2), in Vol. III of the Code.

[3] A reference to s. 310A, in s. 170 (2) was inserted by the Bengal Tenancy Amendment (Amendment) Act, 1907 (Ben. Act I of 1907), s. 53 (2), in Vol. III of the Code.

[4] Act 14 of 1907 has been repealed and replaced by the Code of Civil Procedure, 1908 (Act 5 of 1908) and the reference to it here is taken to be made to the Code of Civil Procedure, 1908 (Act 5 of 1908) and the reference to it here is taken to be made to the Code of Civil Procedure, 1908 (Act 5 of 1908).

(Secs. 171-172.)

(2) When an order for the sale of a tenure or holding in execution of such a decree has been made, the tenure or holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court.

(3) The judgment-debtor, or any person having in the tenure or holding any interest voidable on the sale, may pay money into Court under this section.

Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding.

171. (1) When any person having, in a tenure or holding advertised for sale under this Chapter, [or in execution of a certificate for arrears of rent due in respect thereof, signed under the Bihar and Orissa Public Demands Recovery Act, 1914][¹] an interest which would be voidable upon the sale, pays into Court the amount requisite to prevent the sale—

- (a) the amount so paid by him shall be deemed to be a debt bearing interest at twelve *per centum per annum* and secured by a mortgage of the tenure or holding to him;
- (b) his mortgage shall take priority of every other charge on the tenure or holding other than a charge for arrear of rent; and
- (c) he shall be entitled to possession of the tenure or holding as mortgagee of the tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(2) Nothing in this section shall affect any other remedy to which any such person would be entitled.

Inferior tenant paying into Court — deduct 50m rent.

172. [When a tenure or holding is advertised for sale—

- (a) under this Chapter, in execution of a decree against a superior tenant defaulting, or
- (b) in execution of a certificate, signed under the Bihar and Orissa Public Demands Recovery Act, 1914, for arrears of rent due in respect of the tenure or holding from a superior tenant defaulting.][²]

and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in

[¹] Inserted by the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), in Vol. III of this Code.

[²] Substituted for the original by the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act 4 of 1914), in Vol. III of this Code.

(Secs. 173-174.)

addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and that landlord, if he is not the defaulter, may, in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

1662. **173. (1)** Notwithstanding anything contained in section 294 of the Code of Civil Procedure^[1], the holder of a decree in execution of which a tenure or holding is sold under this Chapter may, without the permission of the Court, bid for or purchase the tenure or holding.

Decree holder may bid at sale; judgment debtor may not.

(2) The judgment-debtor shall not bid for or purchase a tenure or holding so sold.

(3) When a judgment-debtor purchases by himself or through another person a tenure or holding so sold, the Court may, if it thinks fit, on the application of the decree-holder or any other person interested in the sale, by order set aside the sale and the costs of the application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it shall be paid by the judgment-debtor.

174. (1) Where a tenure or holding is sold for an arrear of rent due thereon, then, at any time within thirty days from the date of sale, the judgment-debtor may apply to have the sale set aside, on his depositing in Court, for payment to the decree-holder, the amount recoverable under the decree with costs, and, for payment to the purchaser, a sum equal to five *per centum* of the purchase-money.

Application by judgment debtor to set aside sale.

892. (2) If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure^[2] shall apply in the case of a sale so set aside:

692. *Provided that, if a judgment-debtor applies under section 311 of the Code of Civil Procedure^[3] to set aside the sale of his tenure or holding, he shall not be entitled to make an application under this section; [4] [and, if he applies under this section, he shall not be entitled to make*

[1] Act 14 of 1852 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 72 in Order XXI in Sec. 1 to that Code—see s. 153 thereof, in *General Acts*, 1909, Pt. 120, p. 154.

[2] This reference should now be taken to be made to rule 61 in Order XXI in Sec. 1 to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 153 thereof, in *General Acts*, 1909, Pt. 120, p. 154.

[3] This reference should now be taken to be made to rule 60 in Order XXI in Sec. 1 to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 153 thereof, in *General Acts*, 1909, Pt. 120, p. 154.

[4] These words in square brackets were added to s. 174 (2), *passim*, by the Bengal Tenancy (Amendment) Act, 1907 (Beng. Act 1 of 1907), s. 55, in Vol. III of this Code.

(Secs. 175-178.)

an application under section 311 of the Code of Civil Procedure^[1].] 14

(3) Section 313 of the Code of Civil Procedure^[2] shall not apply to 14
any sale under this Chapter.

Registration
of certain
instruments
creating in-
cumbrances.

175. Notwithstanding anything contained in Part IV of the Indian Registration Act, 1877,^[3] an instrument creating an incumbrance upon 3
any tenure or holding which has been executed before the commence-
ment of this Act, and is not required by section 17 of the said Registra-
tion Act^[4] to be registered, shall be accepted for registration under that
Act if it is presented for that purpose to the proper officer within one
year from the commencement of this Act.

Notification
of incum-
brances to
landlord.

176. Every officer who has, whether before or after the passing of
this Act, registered an instrument executed by a tenant of a tenure or
holding and creating an incumbrance on the tenure or holding, shall,
at the request of the tenant or of the person in whose favour the incum-
brance is created, and on payment by him of such fee as the Local
Government may fix in this behalf, notify the incumbrance to the land-
lord by causing a copy of the instrument to be served on him in the pre-
scribed manner.

Power to
create incum-
brances not
extended.

177. Nothing contained in this Chapter shall be deemed to enable a
person to create an incumbrance which he could not otherwise lawfully
create.

CHAPTER XV.

CONTRACT AND CUSTOM.

Restrictions
on exclusion
of Act by
agreement.

178. (1) Nothing in any contract between a landlord and a tenant
made before or after the passing of this Act—

(a) shall bar in perpetuity the acquisition of an occupancy-right
in land, or

[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 90 in Order XXI in Sch. I to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[2] This reference should now be taken to be made to rule 91 in Order XXI in Sch. I to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

[3] Act 3 of 1877 has been repealed and re-enacted by the Indian Registration Act, 1908 (16 of 1908), and this reference should now be construed as a reference to Part IV, of the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

[4] This reference should now be construed as a reference to s. 17 of the Indian Registration Act, 1908 (16 of 1908)—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

(Sec. 178.)

- (b) shall take away an occupancy-right in existence at the date of the contract, or
- (c) shall entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act, or
- (d) shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(2) Nothing in any contract made between a landlord and a tenant since the 15th day of July, 1880, and before the passing of this Act, shall prevent a *rayat* from acquiring, in accordance with this Act, an occupancy-right in land.

(3) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall—

- (a) prevent a *rayat* from acquiring, in accordance with this Act, an occupancy-right in land;
- (b) take away or limit the right of an occupancy-*rayat* to use land as provided by section 23,
- (c) take away the right of a *rayat* to surrender his holding in accordance with section 56,
- (d) take away the right of a *rayat* to transfer or bequeath his holding in accordance with local usage,
- (e) take away the right of an occupancy-*rayat* to sub-let subject to, and in accordance with, the provisions of this Act,
- (f) take away the right of a *rayat* to apply for a reduction of rent under section 38 or section 52,
- (g) take away the right of a landlord or a tenant to apply for a commutation of rent under section 40; or
- (h) affect the provisions of section 67 relating to interest payable on arrears of rent.

Provided as follows:—

- (i) nothing in this section shall affect the terms or conditions of a lease granted *bona fide* for the reclamation of waste land, except that, where, on or after the expiration of the term created by the lease, the lessee would, under Chapter V, be entitled to an occupancy-right in the land comprised in the lease, nothing in the lease shall prevent him from acquiring that right;

(Secs. 179-180.)

(ii) when a landlord has reclaimed waste-land by his own servants or hired labourers, and subsequently lets the same or a part thereof to a *raiyat*, nothing in this Act shall affect the terms of any contract whereby a *raiyat* is prevented from acquiring an occupancy-right in the land or part during a period of thirty years from the date on which the land or part is first let to a *raiyat*;

(iii) nothing in this section shall affect the terms or conditions of any contract for the temporary cultivation of ^[1][horticultural or] orchard land with agricultural crops.

[²] *[Explanation.*—The expression “horticultural land,” as used in proviso (iii), means garden land, in the occupation of a proprietor or permanent tenure-holder, which is used *bonâ fide* for the cultivation of flowers or vegetables, or both, grown for the personal use of such proprietor or permanent tenure-holder and his family, and not for profit or sale.]

Permanent
mukarrari
leases.

179. Nothing in this Act shall be deemed to prevent a proprietor or a holder of a permanent tenure in a permanently-settled area from granting a permanent *mukarrari* lease on any terms agreed on between him and his tenant.

Utbandi, *char*
and *diâra*
land.

180. (1) Notwithstanding anything in this Act, a *raiyat*—

(a) who, in any part of the country where the custom of *utbandi* prevails, holds land ordinarily let under that custom and for the time being let under that custom, or

(b) who holds land of the kind known as *char* or *diâra*, shall not acquire a right of occupancy—

in case (a), in land ordinarily held under the custom of *utbandi* and for the time being held under that custom,
or

in-case (b), in the *char* or *diâra* land,

until he has held the land in question for twelve continuous years; and, until he acquires a right of occupancy in the land, he shall be liable to pay such rent for his holding as may be agreed on between him and his landlord.

(2) Chapter VI shall not apply to *raiya*t holding land under the custom of *utbandi* in respect of land held by them under that custom.

[¹] These words in square brackets in proviso (iii) were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 56 (1), in Vol. III of this Code.

[²] This *Explanation* was added to proviso (iii) by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 56 (2), in Vol. III of this Code.

(Secs. 181-184.)

(3) The Collector may, on the application of either the landlord or the tenant or on a reference from the Civil Court, declare that any land has ceased to be *char* or *diára* land within the meaning of this section, and thereupon all the provisions of this Act shall apply to the land.

181. Nothing in this Act shall affect any incident of a *ghatali*^[1] or other service-tenure, or, in particular, shall confer a right to transfer or bequeath a service-tenure which, before the passing of this Act, was not capable of being transferred or bequeathed. Saving as to service tenures.

182. When a *raiyat* holds his homestead otherwise than as part of his holding as a *raiyat*, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a *raiyat*. Homesteads.

183. Nothing in this Act shall affect any custom, usage or custom-ary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions. Saving of custom.

Illustrations.

(1) A usage under which a *raiyat* is entitled to sell his holding without the consent of his landlord is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That usage, accordingly, wherever it may exist, will not be affected by this Act.

(2) The custom or usage that an under *raiyat* should, under certain circumstances, acquire a right of occupancy is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

CHAPTER XVI.

LIMITATION.

184. (1) The suits, appeals and applications specified in Schedule III annexed to this Act shall be instituted and made within the time prescribed in that Schedule for them, respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed although limitation has not been pleaded. Limitation in suits, appeals and applications in Schedule III.

[1] As to *ghatali* tenures see the Bengal *Ghatali* Lands Regulation, 1718 (2 of 1814), *note*, p. 182, and the Bengal *Ghatali* Lands Act, 1850 (5 of 1850), *note* p. 232.

(Secs. 185-186.)

(2) Nothing in this section shall revive the right to institute any suit or appeal or make any application which would have been barred by limitation if it had been instituted or made immediately before the commencement of this Act.

Portions of
the Indian
Limitation
Act not
applicable to
such suits,
etc.

185. (1) Sections 7, 8 and 9 of the Indian Limitation Act, 1877^[1], shall not apply to the suits and applications mentioned in the last foregoing section.

(2) Subject to the provisions of this Chapter, the provisions of the Indian Limitation Act, 1877^[2], shall apply to all suits, appeals and applications mentioned in the last foregoing section.

CHAPTER XVII.

SUPPLEMENTAL.

Penalties.

Penalties
for illegal
interference
with pro-
duce.

186. (1) If any person, otherwise than in accordance with this Act or some other enactment for the time being in force,—

- (a) distrains or attempts to distrain the produce of a tenant's holding, or,
- (b) resists a distraint duly made under this Act, or forcibly or clandestinely removes any property duly distrained under this Act, or,
- (c) except with the authority or consent of the tenant, prevents or attempts to prevent the reaping, gathering, storing, removing or otherwise dealing with any produce of a holding,

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code^[3].

45 of 1

(2) Any person who abets, within the meaning of the Indian Penal Code^[3] the doing of any act mentioned in sub-section (1), shall be 45 of 1

[¹] Act 15 of 1877 has been repealed and re-enacted by the Indian Limitation Act, 1908 (9 of 1908), and this reference should now be construed as a reference to ss. 6, 7, 8 and 9 of the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

[²] This reference should now be construed as a reference to the Indian Limitation Act, 1908 (9 of 1908)—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

[³] Printed in the General Acts, 1834-67, Ed. 1909, p. 248.

(Secs 186A-188)

deemed to have abetted the commission of criminal trespass within the meaning of that Code^[1]

[²]Damages for denial of landlord's title

[²]186A. (1) When, in any suit between a landlord and tenant as such, the tenant renounces his character as tenant of the landlord by setting up without reasonable or probable cause title in a third person or himself, the Court may pass a decree in favour of the landlord for such amount of damages, not exceeding ten times the amount of the annual rent payable by the tenant, as it may consider to be just

(2) The amount of damages decreed under sub section (1), together with any interest accruing due thereon, shall, subject to the landlord's charge for rent, be a first charge on the tenure or holding of the tenant; and the landlord may execute such decree for damages and interest either as a decree for a sum of money, or, subject to the provisions of section 158B, in any of the modes in which a decree for rent may be executed

Agents and representatives of landlords

187. (1) Any appearance, application or act, in, before or to any Court or authority, required or authorized by this Act to be made or done by a landlord, may, unless the Court or authority otherwise directs, be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord

(2) Every notice required by this Act to be served on, or given to, a landlord shall, if served on, or given to, an agent empowered as aforesaid to accept service of or receive the same on behalf of the landlord, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person

(3) Every document required by this Act to be signed or certified by a landlord, except an instrument appointing or authorizing an agent, may be signed or certified by an agent of the landlord authorized in writing in that behalf

188 Where two or more persons are joint landlords, anything which the landlord is under this Act required or authorized to do may be done either by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them

[1] Printed in the General Act 1873, p. 11, 173.

[2] The words "and a" were inserted by the Local Tenancy (Amendment) Act 1907 (Ben. Act I of 1907), s. 5, in Vol. III of the Code.

(Secs. 188A-189.)

Procedure in
suits by
Joint-land-
lords.

[¹]188A. Notwithstanding anything contained in this Act, every suit between landlord and tenant as such instituted by—

- (a) a sole landlord,
- (b) the entire body of landlords, or
- (c) one or more co-sharer landlords,

shall be subject to the provisions of sections 143 to 153 (both inclusive);

and, to every decree passed in a suit framed under sub-section (1) or sub-section (2) of section 158B the provisions of Chapter XIV[²] shall, so far as may be practicable, be applicable.

Rules under Act.

Power to
make rules
regarding
procedure,
powers of
officers and
services of
notices,

189. The Local Government may, from time to time, by notification in the official Gazette, make rules,[³] consistent with this Act,—

(1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

- (a) any power exercised by a Civil Court in the trial of suits;
- (b) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act,^B 1875;[⁴] and
- (c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

[⁵](2) to prescribe the forms to be used, and the mode of service of notices issued, under this Act, where no form or mode is prescribed by this or any other Act;

[¹] This section was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 58, in Vol. III of this Code.

[²] S. 158B forms part of Chapter XIV—see p. 545, *ante*.

[³] For rules made under s. 189 see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[⁴] Printed in Vol. II of this Code.

[⁵] These sub-sections (2) to (4) were substituted for the original sub-section (2), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 59, in Vol. III of this Code. The original sub-section ran thus:—

“(2) to prescribe the mode of service of notices under this Act, where no mode is prescribed by this or any other Act.”

(Secs. 190-192)

[1](3) to prescribe the manner in which landlord's fees shall be transmitted to the landlord, and

[1](4) to prescribe the authority by whom the fees deposited under sections 12, 13, 15, 17 and 18, clause (a), may be declared to be forfeited, and the mode in which such fees, when so forfeited, shall be dealt with]

190. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby Procedure for making, publication and confirmation of rules.

(2) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner.

Provided that every such draft shall be published in the official Gazette

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made

(6) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

Provisions as to temporarily settled districts

191. Where the area comprised in a tenure is situate in an estate East-Cas to be settled which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue authority empowered by the Government to make definitely or confirm settlements

192. When a landlord grants a lease or makes any other contract purporting to entitle the tenant of land included in an area for From a law suit

(Secs. 188A-189.)

Procedure in
suits by
Joint-land-
lords.

[¹]188A. Notwithstanding anything contained in this Act, every suit between landlord and tenant as such instituted by—

- (a) a sole landlord,
- (b) the entire body of landlords, or
- (c) one or more co-sharer landlords,

shall be subject to the provisions of sections 143 to 153 (both inclusive);

and, to every decree passed in a suit framed under sub-section (1) or sub-section (2) of section 158B the provisions of Chapter XIV[²] shall, so far as may be practicable, be applicable.

Rules under Act.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules,[³] consistent with this Act,—

(1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

(a) any power exercised by a Civil Court in the trial of suits;

(b) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, Ben. 8 of 1875; [⁴] and

(c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

[⁵](2) to prescribe the forms to be used, and the mode of service of notices issued, under this Act, where no form or mode is prescribed by this or any other Act;

[¹] This section was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 58, in Vol. III of this Code.

[²] S. 158B forms part of Chapter XIV—see p. 545, *ante*.

[³] For rules made under s. 189 see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[⁴] Printed in Vol. II of this Code.

[⁵] These sub-sections (2) to (4) were substituted for the original sub-section (2), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 59, in Vol. III of this Code. The original sub-section ran thus:—

“(2) to prescribe the mode of service of notices under this Act, where no mode is prescribed by this or any other Act.”

(Secs. 100-102.)

[1](3) to prescribe the manner in which landlord's fees shall be transmitted to the landlord, and

[1](4) to prescribe the authority by whom the fees deposited under sections 12, 13, 15, 17 and 18, clause (a), may be declared to be forfeited, and the mode in which such fees, when so forfeited, shall be dealt with.]

100. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner:

Provided that every such draft shall be published in the official Gazette

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made

(6) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

Provisions as to temporarily settled districts

101. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue authority empowered by the Government to make definitely or confirm settlements

102. When a landlord grants a lease or makes any other contract purporting to entitle the tenant of land not included in an area per-

(Secs. 188A-189.)

Procedure in
suits by
Joint-land-
lords.

[¹]188A. Notwithstanding anything contained in this Act, every suit between landlord and tenant as such instituted by—

- (a) a sole landlord,
- (b) the entire body of landlords, or
- (c) one or more co-sharer landlords,

shall be subject to the provisions of sections 143 to 153 (both inclusive);

and, to every decree passed in a suit framed under sub-section (1) or sub-section (2) of section 158B the provisions of Chapter XIV[²] shall, so far as may be practicable, be applicable.

Rules under Act.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules,[³] consistent with this Act,—

(1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

(a) any power exercised by a Civil Court in the trial of suits;

(b) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, Ben. 8 of 1875; [⁴] and

(c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

[⁵](2) to prescribe the forms to be used, and the mode of service of notices issued, under this Act, where no form or mode is prescribed by this or any other Act;

[¹] This section was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 58, in Vol. III of this Code.

[²] S. 158B forms part of Chapter XIV—see p. 545, *ante*.

[³] For rules made under s. 189 see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[⁴] Printed in Vol. II of this Code.

[⁵] These sub-sections (2) to (4) were substituted for the original sub-section (2), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 59, in Vol. III of this Code. The original sub-section ran thus:—

“(2) to prescribe the mode of service of notices under this Act, where no mode is prescribed by this or any other Act.”

(Secs. 190-192)

[1](3) to prescribe the manner in which landlord's fees shall be transmitted to the landlord, and

[1](4) to prescribe the authority by whom the fees deposited under sections 12, 13, 15, 17 and 18, clause (a), may be declared to be forfeited, and the mode in which such fees, when so forfeited, shall be dealt with]

190. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby. Procedure for making, publication and confirmation of rules.

(2) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner

Provided that every such draft shall be published in the official Gazette

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made

(6) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

Provisions as to temporarily settled districts

191. Where the area comprised in a tenure is situate in an estate having an area of 1000 or more acres which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement proceedings by a Revenue authority empowered by the Government to make definitely or temporarily settlements

192. When a landlord grants a lease or takes any other contract purporting to entitle the tenant of land not included in an area per

(Secs. 188A-189.)

Procedure in
suits by
Joint-land-
lords.

[¹]188A. Notwithstanding anything contained in this Act, every suit between landlord and tenant as such instituted by—

- (a) a sole landlord,
- (b) the entire body of landlords, or
- (c) one or more co-sharer landlords,

shall be subject to the provisions of sections 143 to 153 (both inclusive);

and, to every decree passed in a suit framed under sub-section (1) or sub-section (2) of section 158B the provisions of Chapter XIV[²] shall, so far as may be practicable, be applicable.

Rules under Act.

Power to
make rules
regarding
procedure,
powers of
officers and
services of
notices.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules,[³] consistent with this Act,—

(1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

- (a) any power exercised by a Civil Court in the trial of suits;
- (b) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, Ben. 8 of 1875;[⁴] and
- (c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

[⁵](2) to prescribe the forms to be used, and the mode of service of notices issued, under this Act, where no form or mode is prescribed by this or any other Act;

[¹] This section was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 58, in Vol. III of this Code.

[²] S. 158B forms part of Chapter XIV—see p. 545, *ante*.

[³] For rules made under s. 189 see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

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“(2) to prescribe the mode of service of notices under this Act, where no mode is prescribed by this or any other Act.”

(Secs 190 192.)

[1](3) to prescribe the manner in which landlord's fees shall be transmitted to the landlord, and

[1](4) to prescribe the authority by whom the fees deposited under sections 12, 13, 15, 17 and 18, clause (a), may be declared to be forfeited, and the mode in which such fees, when so forfeited, shall be dealt with]

190. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby. Procedure for making, publication and confirmation of rules.

(2) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner:

Provided that every such draft shall be published in the official Gazette

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made

(6) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

Provisions as to temporarily settled districts

191 Where the area comprised in a tenure is situate in an estate Subject as to the 12, 13, and 15, and not settled. which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognised in settlement proceedings by a Revenue authority empowered by the Government to make definitely or confirm settlements

192 When a landlord grants a lease or makes any other contract purporting to entitle the tenant of land not included in an area for

(Secs. 188A-189.)

Procedure in
suits by
Joint-land-
lords.

[¹]188A. Notwithstanding anything contained in this Act, every suit between landlord and tenant as such instituted by—

- (a) a sole landlord,
- (b) the entire body of landlords, or
- (c) one or more co-sharer landlords,

shall be subject to the provisions of sections 143 to 153 (both inclusive);

and, to every decree passed in a suit framed under sub-section (1) or sub-section (2) of section 158B the provisions of Chapter XIV^[2] shall, so far as may be practicable, be applicable.

Rules under Act.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules,^[3] consistent with this Act,—

(1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

(a) any power exercised by a Civil Court in the trial of suits;

(b) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875;^[4] and

(c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

[⁵](2) to prescribe the forms to be used, and the mode of service of notices issued, under this Act, where no form or mode is prescribed by this or any other Act;

[¹] This section was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 58, in Vol. III of this Code.

[²] S. 158B forms part of Chapter XIV—see p. 545, *ante*.

[³] For rules made under s. 189 see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

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[⁵] These sub-sections (2) to (4) were substituted for the original sub-section (2), by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 59, in Vol. III of this Code. The original sub-section ran thus:—

“(2) to prescribe the mode of service of notices under this Act, where no mode is prescribed by this or any other Act.”

(Secs. 100-102)

[1](3) to prescribe the manner in which landlord's fees shall be transmitted to the landlord, and

[1](4) to prescribe the authority by whom the fees deposited under sections 12, 13, 15, 17 and 18, clause (a), may be declared to be forfeited, and the mode in which such fees, when so forfeited, shall be dealt with]

100. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby

Procedure for making, publication and confirmation of rules.

(2) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner.

Provided that every such draft shall be published in the official Gazette

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration

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101. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement proceedings by a Revenue authority empowered by the Government to make definitive or confirm settlements

Nothing as to tenancy by and not being settled.

102. When a landlord grants a lease or makes any other contract purporting to entitle the tenant of land not included in an area for

Power of tenant

(Secs. 188A-189.)

Procedure in
suits by
Joint-land-
lords.

[¹]188A. Notwithstanding anything contained in this Act, every suit between landlord and tenant as such instituted by—

- (a) a sole landlord,
- (b) the entire body of landlords, or
- (c) one or more co-sharer landlords,

shall be subject to the provisions of sections 143 to 153 (both inclusive);

and, to every decree passed in a suit framed under sub-section (1) or sub-section (2) of section 158B the provisions of Chapter XIV[²] shall, so far as may be practicable, be applicable.

Rules under Act.

Power to
make rules
regarding
procedure,
powers of
officers and
services of
notices,

189. The Local Government may, from time to time, by notification in the official Gazette, make rules,[³] consistent with this Act,—

- (1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—
 - (a) any power exercised by a Civil Court in the trial of suits;
 - (b) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875;[⁴] and
 - (c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

[⁵](2) to prescribe the forms to be used, and the mode of service of notices issued, under this Act, where no form or mode is prescribed by this or any other Act;

[¹] This section was inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 58, in Vol. III of this Code.

[²] S. 158B forms part of Chapter XIV—see p. 545, *ante*.

[³] For rules made under s. 189 see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

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190. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

Procedure for making, publication and confirmation of rules.

(2) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner:

Provided that every such draft shall be published in the official Gazette.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made

(6) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

Provisions as to temporarily-settled districts.

191. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue authority empowered by the Government to make definitely or confirm settlements.

Saving as to land held in a district not permanently settled.

192. When a landlord grants a lease or makes any other contract, purporting to entitle the tenant of land not included in an area per-

Power after rent i

[¹] See footnote [¹] on p. 560, ante.

(Secs. 193-195.)

of new
assessment
of revenue.

manently settled to hold that land free of rent or at a particular rent, and while the lease or contract is in force—

(a) land-revenue is for the first time made payable in respect of the land, or

(b) land-revenue having been previously payable in respect of it, a fresh settlement of land-revenue is made,

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant,^[1] [or of his own motion,] fix a fair and equitable rent for the land in accordance with the provisions of this Act.

Rights of pasturage, etc.

Rights of
pasturage,
forest-rights,
etc.

193. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-right, rights over fisheries and the like.

Saving for conditions binding on landlords.

Tenant not
enabled
by Act to
violate con-
ditions bind-
ing on land-
lord.

194. Where a proprietor or permanent tenure-holder holds his estate or tenure subject to the observance of any specified rule or condition, nothing in this Act shall entitle any person occupying land within the estate or tenure to do any act which involves a violation of that rule or condition.

Savings for special enactments.

Savings for
special
enactments.

195. Nothing in this Act shall affect—

(a) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act:

(b) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the Revenue authorities;

(c) any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue;

(d) any enactment relating to the partition of revenue-paying estates;

(e) any enactment relating to *patni* tenures, in so far as it relates to those tenures; or

(f) any other special or local law not repealed either expressly or by necessary implication by this Act.

^[1] These words in square brackets in section 192 were inserted by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 60, in Vol. III of this Code.

(Sec. 196. Schedule I.)

Construction of Act.

— 196. This Act shall be read subject to every Act passed after its commencement by the Lieutenant-Governor of Bengal in Council. [1]

Act to be read
subject to
Acts hereafter
passed by
Lieutenant-
Governor of
Bengal in
Council.

SCHEDULE I.

¹ (See section 2.)

REPEAL OF ENACTMENTS.

Regulations of the Bengal Code.

Number and year.	SUBJECT OF REGULATION	Extent of repeal
[1] 8 of 1793 . . .	A Regulation for re-enacting with modifications and amendments the rules for the Decennial Settlement of the public revenue payable from the lands of the <i>zamindars</i> , independent <i>talukdars</i> and other actual proprietors of land in Bengal, Bihar and Orissa, passed for those Provinces, respectively, on the 16th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 56 and 57.
[1] 12 of 1803 . . .	A Regulation for the settlement and collection of the public revenue in the <i>zils</i> of Cuttack, including the <i>paraganas</i> of Pataspur, Kamarlachar, and Bhograi at present included in the <i>zils</i> of Midnapore.	Section 7.
[1] 5 of 1812 . . .	A Regulation for amending some of the rules at present in force for the collection of the land revenue.	Sections 2, 3, 4, 23 and 27.
[1] 14 of 1812 . . .	A Regulation for explaining section 2, Regulation 5, 1812, and rescinding sections 3 and 4, Regulation 44, 1791, and sections 3 and 4, Regulation 50, 1794, and enacting other rules in lieu thereof.	The preamble and sections 2 and 3.
[1] 11 of 1825 . . .	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by derivation of a river or the sea.	In clause 1 of section 4, from and including the words "Nor if asserted to a subordinate tenure" to the end of the clause.

[1] But see now the Indian Councils Act, 1922 (35 & 36 Vict., c. 10), s. 5, in the Collection of Statutes relating to India, Vol. II, Ed. 1901, p. 613.

[2] The Bengal Decennial Settlement Regulation, 1791. It is printed *ante*, p. 21.

[3] The Cuttack Land revenue Regulation, 1803. It is printed *ante*, p. 103, but s. 7 has since been repealed altogether by the Regulating and Amending Act, 1814 (29 of 1809).

[4] The Bengal Land revenue Rules Regulation, 1812. It is printed *ante*, p. 52.

[5] The Bengal Leases and Land revenue Regulation, 1817. It is printed *ante*, p. 141.

[6] The Bengal Alluvion and Derivation Regulation, 1825. It is printed *ante*, p. 200.

(Schedule I.)

Acts of the Bengal Council.

Number and year.	SUBJECT OR ACT.	Extent of repeal.
[¹] 6 of 1862 . .	An Act to amend Act 10 of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The whole Act.
[²] 4 of 1867 . .	An Act to explain and amend Act 6 of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.
[³] 8 of 1869 . .	An Act to amend the Procedure in suits between landlords and tenants.	The whole Act.
[⁴] 8 of 1879 . .	An Act to define and limit the powers of Settlement-officers.	The whole Act.
<i>Act of the Governor-General in Council.</i>		
[⁵] 10 of 1859 . .	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.

[¹] The Bengal Rent Act, 1862. It is printed in Vol. II of this Code.

[²] The Bengal Rent (Appeals) Act, 1867. It is printed in Vol. II of this Code.

[³] The Landlord and Tenant Procedure Act, 1869.

[⁴] The Bengal Rent Settlement Act, 1879. It is printed in Vol. II of this Code.

[⁵] The Bengal Rent Act, 1859.

(Schedule II.)

SCHEDULE II.

FORMS OF RECEIPT AND ACCOUNT.

(See sections 56 and 57.)

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (TENANT'S PORTION).

1. Serial number of Receipt
2. Estate ; Village ; Tahsil
3. Tenant's name , Son of
4. Particulars of the holding—

Nakdi, Dighas	: rent Rs.						
Bhadi, Dighas	: Maunds or Rs.						
<table border="0"> <tr> <td>{</td> <td>Jalir, Rs.</td> </tr> <tr> <td>{</td> <td>Bakur, Rs.</td> </tr> <tr> <td>{</td> <td>Phallar, Rs.</td> </tr> </table>		{	Jalir, Rs.	{	Bakur, Rs.	{	Phallar, Rs.
{	Jalir, Rs.						
{	Bakur, Rs.						
{	Phallar, Rs.						
Government Cases { Road Case, Rs.							
{ Public Works Case, Rs.							

Signature of the Landlord or his Authorized Agent

FORM OF RECEIPT

PARTICULARS OF THE HOLDING (LANDLORD'S PORTION).

1. Serial number of Receipt
2. Estate ; Village ; Tahsil
3. Tenant's name , Son of
4. Particulars of the holding—

Nakdi, Dighas	: rent Rs.						
Bhadi, Dighas	: Maunds or Rs.						
<table border="0"> <tr> <td>{</td> <td>Jalir, Rs.</td> </tr> <tr> <td>{</td> <td>Bakur, Rs.</td> </tr> <tr> <td>{</td> <td>Phallar, Rs.</td> </tr> </table>		{	Jalir, Rs.	{	Bakur, Rs.	{	Phallar, Rs.
{	Jalir, Rs.						
{	Bakur, Rs.						
{	Phallar, Rs.						
Government Cases { Road Case, Rs.							
{ Public Works Case, Rs.							

Signature of the Landlord or his Authorized Agent

Section 53 of the Bengal Tenancy Act, 1885, provides as follows—

- (1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he owes the payment to be credited, and the payment shall be credited accordingly
- (2) If he does not so declare, the payment may be credited to the account of such year and instalment as the landlord may direct

(Schedule II.)

FORM OF ACCOUNT.

FORM OF ACCOUNT.

1. Year	2. Tenant's name	3. Particulars of holding—(area, rent, etc.)	Rs. A. P.
		<i>Bighas</i> <i>Rato</i>	
		<i>Nukdi</i>	Rs. A. P.
		Government Cesses	
		<i>Bighas</i> <i>Maunds</i>	Rs. A. P.
		<i>Bhaoli</i>	
		<i>Jalkar</i>	
		<i>Bankar</i>	
		<i>Phalkar</i>	
		<i>Maunds</i>	Rs. A. P.
4. Demand of the year			
5. Balance of former years (<i>Bakajya</i>)			
6. Total demand (current and arrear)			Rs. A. P.
7. Paid each on account of		{ Current demand	
		{ Arrear demand	
		<i>Maunds</i>	
8. Paid in kind			
9. Balance outstanding at end of year			Rs. A. P.
10. Signature of the Landlord or his Authorized Agent			

(Schedule II.)

FORM OF ACCOUNT.

[illegible]

FORM OF ACCOUNT.

[illegible]

(Schedule II.)

DETAILS OF PAYMENTS (LANDLORD'S PORTION).

[illegible]

DETAILS OF PAYMENT (TELETYPE PORTION)

[illegible]

(Schedule III.)

[¹] SCHEDULE III.

LIMITATION.

(See section 184.)

PART I.—Suits.

Description of suit.	Period of limitation.	Time from which period begins to run.
1 To eject any tenure-holder or <i>raiyat</i> on account of any breach of a condition in respect of which there is a contract expressly providing that ejectment shall be the penalty of such breach.	One year . . .	The date of the breach.
[²] [¹] (a) To eject a non-occupancy- <i>raiyat</i> on the ground of the expiration of the term of his lease.	Six months . . .	The expiration of the term.]
2. For the recovery of an arrear of rent [³] [in a suit brought by— (i) a sole landlord, (ii) the entire body of landlords, or (iii) one or more co-sharer landlords]— (a) when the arrear fell due before a deposit was made under section 61 on account of the rent of the same holding ; (b) in other cases	Six months . . . Three years . . .	The date of the service of notice of the deposit. [⁴] [The last day of the agricultural year in which the arrear fell due.]
3. To recover possession of land claimed by the plaintiff as [⁵] [a <i>raiyat</i> or an under- <i>raiyat</i>].	Two years . . .	The date of dispossession.

[¹] The word “rent”, in Sch. III, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 463.

[²] Article 1 (a) was inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (1), in Vol. III of this Code.

[³] These words in square brackets in Article 2 were inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (a), in Vol. III of this Code.

[⁴] This entry in square brackets was substituted for the original entry, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (b), in Vol. III of this Code. The original entry ran thus:—

“The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of *Jeth* of the *Amti* or *Fasli* year in which the arrear fell due, where either of those years prevails.”

[⁵] These words in square brackets in Article 3 were substituted for the words “an occupancy-*raiyat*,” by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (3) in Vol. III of this Code.

(Schedule III.)

PART II.—*Appeals.*

Description of appeal.	Period of limitation.	Time from which period begins to run.
4 From any decree or order under this Act, to the Court of a District Judge or Special Judge	Thirty days	The date of the decree or order appealed against
5 From any order of a Collector under this Act, to the Commissioner	Thirty days	The date of the order appealed against

PART III.—*Applications.*

Description of application.	Period of limitation.	Time from which period begins to run.
6 For the execution of a decree or order made [1] [in a suit between landlord and tenant to whom the provisions of this Act are applicable,] and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree; except where the judgment-debtor has by fraud or force	Three years	(1) The date of the decree or order; or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court, or (3) where there has been a review of judgment, the date of the decision passed on the review

877.

[1] These words in square brackets in Article 6 were substituted for the words "under this Act, or any Act repealed by this Act, by the Bengal Tenancy (Amendment) Act, 1917 (LXI A 1 of 1917), s. 61 (4), in Vol. III of this Code.

Act, 1904 (9 Act—no 12 p. 272

(Schedule III.)

[¹] SCHEDULE III.

LIMITATION.

(See section 184.)

PART I.—Suits.

Description of suit.	Period of limitation.	Time from which period begins to run.
1 To eject any tenure-holder or <i>raiyat</i> on account of any breach of a condition in respect of which there is a contract expressly providing that ejection shall be the penalty of such breach.	One year . . .	The date of the breach.
[²] [1 (a) To eject a non-occupancy- <i>raiyat</i> on the ground of the expiration of the term of his lease.	Six months . . .	The expiration of the term.]
2. For the recovery of an arrear of rent [³] [in a suit brought by— (i) a sole landlord, (ii) the entire body of landlords, or (iii) one or more co-sharer landlords]— (a) when the arrear fell due before a deposit was made under section 61 on account of the rent of the same holding ; (b) in other cases	Six months . . . Three years . . .	The date of the service of notice of the deposit. [⁴] [The last day of the agricultural year in which the arrear fell due.]
3. To recover possession of land claimed by the plaintiff as [⁵] [a <i>raiyat</i> or an under- <i>raiyat</i>].	Two years . . .	The date of dispossession.

[¹] The word "rent", in Sch. III, includes also money recoverable under any enactment for the time being in force as if it was rent—see s. 3 (5), *ante*, p. 463.

[²] Article 1 (a) was inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (1), in Vol. III of this Code.

[³] These words in square brackets in Article 2 were inserted, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (a), in Vol. III of this Code.

[⁴] This entry in square brackets was substituted for the original entry, by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (b), in Vol. III of this Code. The original entry ran thus:—

"The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of *Jeth* of the *Amli* or *Fasli* year in which the arrear fell due, where either of those years prevails."

[⁵] These words in square brackets in Article 3 were substituted for the words "an occupancy-*raiyat*," by the Bengal Tenancy (Amendment) Act, 1907 (Ben. Act 1 of 1907), s. 61 (3) in Vol. III of this Code.

(Schedule III.)

PART II.—*Appeals.*

Description of appeal.	Period of limitation	Time from which period begins to run
4 From any decree or order under this Act, to the Court of a District Judge or Special Judge	Thirty days .	The date of the decree or order appealed against
5. From any order of a Collector under this Act, to the Commissioner	Thirty days .	The date of the order appealed against

PART III.—*Applications*

Description of application	Period of limitation	Time from which period begins to run
6 For the execution of a decree or order made [¹] [in a suit between landlord and tenant to whom the provisions of this Act are applicable,] and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree, except where the judgment-debtor has by fraud or force	Three years .	(1) The date of the decree or order, or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court, or (3) where there has been a review of judgment, the date of the decision passed on the review

[¹] These words in square brackets in Article 6 were substituted for the words "under this Act, or any Act repealed by this Act, by the Bengal Tenancy (Amendment) Act, 1907 (Ben Act 1 of 1907), s. 61 (f), in Vol. III of this Code.

[²] Act 15 of 1877 has been repealed and re enacted by the Indian Limitation Act, 1908 (9 of 1908), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579

ACT 8 OF 1886.

(THE BENGAL TENANCY (AMENDMENT) ACT, 1886) [1]

(5th March, 1886)

8 of 1885 An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885 [2]

Whereas it is expedient to amend sections 12 and 13 of the Bengal Tenancy Act, 1885, [2] in manner hereinafter appearing, It is hereby enacted as follows —

1. In section 12, sub-section (2), before the word "mortgage" the word "usufructuary" shall be inserted

2. (1) In section 13, sub-section (1), before the words "the Court" the words "or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed," shall be inserted.

(2) In the same sub-section, before the word "require" the words "or making a decree or order absolute for the foreclosure" shall be inserted

(3) In the same sub-section, before the words "to pay into Court" the words "or mortgagee" shall be inserted

(4) In the same sub-section, before the words "on the landlord" the words "or final foreclosure" shall be inserted

(5) In section 13, sub-section (2), before the words "the Court" the words "or the decree or order absolute for the foreclosure has been made," shall be inserted.

(6) In the same sub-section, before the words "in the prescribed form," the words "or final foreclosure" shall be inserted

[1] SHORT TITLE.—This short title was given by the Amending Act, 1903 (1 of 1903), *ibid.* *see post*, p. 431

LEGISLATIVE PAPERS.—For Proceedings in Council, *see* Gazette of India, Supplement, 1886, pp. 233 and 301

LOCAL EXTENT.—Since this Act merely amends the Bengal Tenancy Act, 1885 (8 of 1885), its local extent must be taken to be the same as that of the latter Act, so far as *see* the "Local Extent" foot-note on page 461, *ante*

[2] Printed *ante*, p. 41

ACT 12 of 1837.

(THE BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1837.)

CONTENTS.

CHAPTER I

PRELIMINARY

SECTION

- 1 Title, extent and commencement
 - 2 Savings
-

CHAPTER II.

CONSTITUTION OF CIVIL COURTS

- 3 Classes of Courts
 - 4 Number of District Judges and Subordinate Judges
 - 5 Number of *Munsifs*
 - 6 Vacancies among District or Subordinate Judges.
 - 7 Vacancies among *Munsifs*
 - 8 Additional Judges
 - 9 Administrative control of Courts
 - 10 Temporary charge of District Court
 - 11 Transfer of proceedings on vacation of office of Subordinate Judge.
 - 12 Temporary charge of office of *Munsif*
 - 13 Power to fix local limits of jurisdiction of Courts
 - 14 Place of sitting of Courts.
 - 15 Vacations of Courts.
 - 16 Seals of Courts
 - 17 Continuance of proceedings of Courts ceasing to have jurisdiction
-

CHAPTER III

ORDINARY JURISDICTION

- 18 Extent of original jurisdiction of District or Subordinate Judge
 - 19 Limits of jurisdiction of *Munsif*
 - 20 Appeals from District and Additional Judges
 - 21 Appeals from Subordinate Judges and *Munsifs*
-

CHAPTER IV.

SPECIAL JURISDICTION

- 22 Power to transfer to Subordinate Judge appeals from *Munsifs*
- 23 Limit of Subordinate Judge or *Munsif* of jurisdiction of District Court in certain specified cases.

ACT 12 OF 1887.

(THE BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1887.)^[1]

(11th March, 1887.)

An Act to consolidate and amend the law relating to Civil Courts in Bengal, [the North-Western Provinces^[2] and Assam.]

Whereas it is expedient to consolidate and amend the law relating to ^{Trib., extent} Civil Courts in Bengal, [*the North-Western Provinces*^[2] and *Assam*]; ^{and cern-} ^{ment.} It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bengal, [Agra]^[2] and Assam Civil Courts Act, 1887.

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1831, Part V, p. 1455, for Preliminary Report of Select Committee, see *ibid.*, 1836, Part V, p. 957, and for Proceedings in Council, see *ibid.*, 1831, Supplement, pp. 1132, 1169, 1414 and 1423; *ibid.*, 1856, Supplement, p. 1453, *ibid.*, 1857, Part VI, pp. 31 and 33.

LOCAL EXTENT.—This Act extends to the whole of the former Province of Bengal (among other territories), with the exception of the territories not subject to the ordinary civil jurisdiction of the High Court—see s. 1 (2), *post*, p. 576.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following scheduled Districts, namely:—

the districts of Hazaribagh, Ranchi, Palamou and Manbhum, and Parganas Bhulhum, the Chhambasa Municipality and the Porabatalate in the district of Singhbhum in the Chota Nagpur Division, see Act IV, Part III.

The application of the Act is barred in the Angul District, by the Angul Laws Regulation, 1913 (5 of 1913), s. 3 (2), *post*, p. 565.

It is in force in the South Parganas for certain purposes, see the South Parganas Justice Regulation, 1933 (5 of 1933), ss. 5 to 11, *post*, pp. 525, 527.

As to Small Cause Courts, see the Provincial Small Cause Courts Act, 1877 (2 of 1877), in General Acts, 1877-87, Ed. 1909, p. 10.

As to Civil Court *trials*, see the Bengal Civil Court Amends Act, 1879 (Hem. Act 2 of 1879), in Vol. III of this Code.

As to Civil Courts in the Angul District, see the Angul Laws Regulation, 1913 (3 of 1913), Chapters III and V, *post*, pp. 565, 570.

As to Civil Courts in the South Parganas—see the South Parganas Justice Regulation, 1933 (5 of 1933), Ch. II, *post*, p. 525.

As to the constitution and powers of Criminal Courts, see the Code of Criminal Procedure, 1909 (5 of 1909), Part II (in General Acts, 1909-13, Ed. 1909) p. 34.

As to responsibility of the Government for errors or irregularities in proceedings of Courts, and nullification of Government officers for those done in conformity with orders, etc., see the Bengal Government's Indemnity Regulation, 1882 (11 of 1882) s. 5, *post*, p. 570.

[2] The name of these Provinces has since been changed—see the United Provinces (District and Act) 1902 (7 of 1902) s. 2, in General Acts, 1902-03, Ed. 1903, p. 56.

[3] This word "Agra" in s. 1 (1) was substituted for the words "North-Western Provinces" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (12 of 1911), s. 2, *post*, p. 572.

(Secs. 2-4.)

(2) It extends to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal,^[1] [*the Lieutenant-Governor of the North-Western Provinces*^[2] and *the Chief Commissioner of Assam,*] except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts,
 * * *^[3] and

(3) It shall come into force on the first day of July, 1887.

Saving.

2. (1) (*Repeal of Acts 6 of 1871 and 19 of 1877.*) Rep. by the *Repealing and amending Act, 1891 (12 of 1891).*

(2) * *^[4] all Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred and lists published under the Bengal Civil Courts Act, 1871,^[5] or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871,^[5] or to any enactment thereby repealed, shall be construed to refer to this Act or to the corresponding portion thereof.

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

Classes of Courts.

3. There shall be the following classes of Civil Courts under this Act, namely:—

- (1) the Court of the District Judge;
- (2) the Court of the Additional Judge;
- (3) the Court of the Subordinate Judge; and
- (4) the Court of the *Munsif*.

4. ^[6] [The Local Government may alter the number of Subordinate Judges and *Munsifs* now fixed and, with the previous sanction of the Governor General in Council, the number of District Judges.]

^[1] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

^[2] The name of these Provinces has since been changed—see the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, in General Acts, 1898-03, Ed. 1909, p. 566.

^[3] The words “and except the Jhansi Division,” in s. 1 (2), which were repealed by the North-Western Provinces and Oudh Act, 1890 (20 of 1890), s. 9 (1), are omitted.

^[4] The word “But,” in s. 2, sub-section (2), which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted.

^[5] Act 6 of 1871 was repealed by s. 2 (1) of the present Act.

^[6] Substituted for the original by the Decentralization Act, 1914 (4 of 1914), s. 2, Sch., Part I, *post*, p. 735.

Number of
District
Judges and
Subordinate
Judges and
Munsifs.

(Secs. 6-5)

5 (*Number of Munsifs*) *Rep by the Decentralization Act, 1914* (4 of 1914), section 2, Schedule, Part I, post.

6 (1) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever^[1] [an increase in the number of District or Subordinate Judges has been made under the provisions of section 4] the Local Government may fill up the vacancy or appoint the Additional District Judges or Subordinate Judges, as the case may be.

(2) Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit in addition to the functions devolving on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be.

7. (1) Whenever the office of *Munsif* is vacant, or whenever the Local Government increases the number of *Munsifs*, the High Court shall nominate such person as it thinks fit to be a *Munsif*, and the Local Government shall appoint him accordingly.

(2) The Local Government may, after consultation with the High Court and ^[1] [subject to the control] of the Governor General in Council make rules^[2] as to the qualifications of persons to be appointed to the office of *Munsif*.

(3) When rules have been made under sub section (2), a person shall not be nominated under sub section (1) unless he possesses the qualifications required by the rules.

8. (1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the High Court^[2] appoint such Additional Judges as may be requisite.

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.

[1] Substituted for the original by the Decentralization Act, 1914 (4 of 1914), s. 2, Sch. Part I, post p. 790.

[2] For rules made under s. 7 (1) see the Bihar and Orissa Local Courts Rules and Orders Vol. I Part IV.

[3] The words "and with the previous sanction of the Governor General in Council" in s. 6 which were repealed by the Bengal, Assam and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911) s. 3, are omitted.

(Secs. 9-12.)

Administra-
tive control
of Courts.

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction.

Temporary
charge of
District
Courts.

10. (1) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Additional Judge, or, if an Additional Judge is not present at that place, the senior Subordinate Judge present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto.

(2) While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

Transfer of
proceedings
on vacation
of office of
Subordinate
Judge.

11. (1) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred :

(3) Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

Temporary
charge of
Munsif.

12. (1) A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of *Munsif*, may appoint such person as he thinks fit to act in the office until that person is relieved by a *Munsif* appointed under section 7 or his appointment is cancelled by the District Judge.

(Secs 13-16)

(2) The District Judge shall forthwith report to the High Court the occurrence of every such vacancy and the making and cancelling of every such appointment

13. (1) The Local Government may, by notification^[1] in the official Gazette, fix and alter the local limits of the jurisdiction of any Civil Court under this Act

Power to fix local limits of jurisdiction of Courts.

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges or to two or more *Munsifs*, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or *Munsif*, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit

(3) When civil business arising in any local area is assigned by the District Judge under sub section (2) to one of two or more Subordinate Judges or to one of two or more *Munsifs*, a decree or order passed by the Subordinate Judge or *Munsif* shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the Local Government under sub section (1).

(4) A Judge of a Court of Small Causes appointed to be also a Subordinate Judge or *Munsif* is a Subordinate Judge or *Munsif*, as the case may be, within the meaning of this section

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section

14. (1) The Local Government may, by notification^[1] in the official Gazette, fix and alter the place or places at which any Civil Court under this Act is to be held

Place of sitting of Courts.

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section

15. (1) Subject to such orders as may be made by the Governor-General in Council, the High Court shall prepare a list of days to be observed in each year as closed holidays in the Civil Courts

Closed days of Courts.

(2) The list shall be published in the local official Gazette

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day

16 Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government

Seal of Court.

[1] For list of notifications issued under s. 13 (1) see the Table and Orders of the Local Government, Vol. I, 1887-88.

(Secs. 17-20.)

Continuance
of proceed-
ings of
Courts ceas-
ing to have
jurisdiction.

17. (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred.

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure^[1] or in any other enactment for the time being in force.

CHAPTER III.

ORDINARY JURISDICTION.

Extent of
original juris-
diction of
District or
Subordinate
Judge.

18. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions of section 15 of the Code of Civil Procedure,^[2] to all original suits for the time being cognizable by Civil Courts.

Extent of
jurisdiction
of *Munsif*.

19. (1) Save as aforesaid, and subject to the provisions of sub-section (2), the jurisdiction of a *Munsif* extends to all like suits of which the value does not exceed one thousand rupees.

(2) The Local Government may, on the recommendation of the High Court, direct by notification in the official Gazette, with respect to any *Munsif* named therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification.

^[3][Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section.]

Appeals from
District and
Additional
Judges.

20. (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court.

^[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to ss. 36, 37 and 114 of, and rule 1 in Order XLVII in Schedule I to, that Code—see s. 158, thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

^[2] This reference should now be taken to be made to s. 15 of the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

^[3] Introduced by the Decentralization Act, 1914 (4 of 1914), s. 2, Sch., Part I, post, p. 740.

(Secs. 21-23.)

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

21. (1) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie—

Appeals from
Subordinate
Judges or
Munsifs.

(a) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made did not exceed five thousand rupees, and

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree or order of a *Munsif* shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(4) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any *Munsif* shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

CHAPTER IV.

SPECIAL JURISDICTION.

22. (1) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of *Munsifs*.

Power to
transfer to
Subordinate
Judges
appeals
from *Munsifs*.

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

23. (1) The High Court may, by general or special order, authorize any Subordinate Judge or *Munsif* to take cognizance of, or any

Power to
authorize
Subordinate
Judges or
Munsifs

(1) For a list of orders made under s. 23 (1), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

(Sec. 24.)

isdiction
District
urt in
tain
ceedings.

District Judge to transfer to a subordinate Judge or *Munsif* under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

(2) The proceedings referred to in sub-section (1) are the following, namely:—

(a) proceedings under Bengal Regulation 5, 1799^[1] (*to limit the Interference of the Zila and City Courts of Diwāni Adālat in the Execution of Wills and Administration to the Estates of persons dying intestate*);

[²]*

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10 of 18

(d) proceedings under the Indian Succession Act, 1865,^[3] and the Probate and Administration Act, 1881,^[4] which cannot⁵ of 1831 be disposed of by District Delegates; and

(e) references by Collectors under section 322C of the Code of 14 of 1882 Civil Procedure.^[5]

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or *Munsif*, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

posal of
ceedings
ferred to
ast fore-
ng section.

24. (1) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge or *Munsif*, as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge:

Provided that an appeal from an order of a *Munsif* in any such proceeding shall lie to the District Judge.

(2) An appeal from the order of the District Judge on the appeal from the order of the *Munsif* under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

[¹] The Bengal Wills and Intestacy Regulation, 1799. It is printed *ante*, p. 83.

[²] Clause (b) [which referred to proceedings under Act 40 of 1858 (Minors) or Act 9 of 1861 (Minors)] and clause (c) [which referred to applications for certificates under Act 27 of 1860 (Succession)] were repealed by the Guardians and Wards Act, 1890 (8 of 1890), printed in General Acts, 1887-97, Ed. 1909, p. 205), and the Succession Certificates Act, 1889 (7 of 1889, printed in General Acts, 1887-97, Ed. 1909, p. 137,) respectively, and are omitted.

[³] Printed in General Acts, 1834-67, Ed. 1909, p. 473.

[⁴] Printed in General Acts, 1879-86, Ed. 1909, p. 80.

[⁵] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to rule 5 in Sch. III to that Code—see s. 158 thereof, in General Acts, 1904-09; Ed. 1909, p. 184.

(Secs. 25-28.)

25. The Local Government may, by notification^[1] in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge or *Munsif* the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887,^[2] for the trial of suits cognizable by such Courts, up to such value not exceeding five hundred rupees in the case of a Subordinate Judge or ^{Invest Subordinate Judge and Munsif with Small Cause Court jurisdiction.} ^{687.} ^[3] two hundred and fifty rupees in the case of a *Munsif* as it thinks fit, and may withdraw any jurisdiction so conferred:

^[4] [Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section.]

CHAPTER V.

MISFEASANCE.

26. Any District Judge, Additional Judge, Subordinate Judge or *Munsif* may, for any misconduct, be suspended or removed by the Local Government. ^{Suspension or removal of judges by Local Government.}

27. (1) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge. ^{Suspension of Subordinate Judge by High Court.}

(2) Whenever the High Court suspends a Subordinate Judge under sub-section (1), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit.

28. (1) The High Court may appoint a commission for inquiring into alleged misconduct of a *Munsif*. ^{Suspension or removal of Munsif by High Court.}

(2) On receiving the report of the result of the inquiry, the High Court may, if it thinks fit, remove or suspend the *Munsif*.

(3) The provisions of Act No. 37 of 1850^[5] (for regulating Inquiries into the behaviour of Public Servants) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

[1] For a notification issued under s. 25, see the Bihar and Orissa Local Exemption Rules and Orders, Vol. I, Part IV.

[2] Printed in General Acts, 1879, Ed. 1200, p. 13.

[3] The words "two hundred and fifty rupees" in s. 25 were substituted for the words "one hundred rupees" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 4, post, p. 712.

[4] Introduced by the Provincial Courts Act, 1914 (4 of 1914), s. 2, Ed. 1200, p. 720.

[5] The Public Servants (Inquiries) Act, 1850. It is printed in General Acts, 1850, Ed. 1200, p. 12.

(4) The High Court may, before appointing the commission, suspend the *Munsif* pending the result of the inquiry.

(5) The High Court may, without appointing a commission, remove or suspend a *Munsif*.

Suspension
of *Munsif*
by District
Judge.

29. (1) A District Judge may, whenever he sees urgent necessity for so doing, suspend a *Munsif* under his administrative control.

(2) Whenever a District Judge suspends a *Munsif* under sub-section (1), he shall forthwith report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit.

CHAPTER VI.

MINISTERIAL OFFICERS.

Appointment
and removal
of ministerial
officers of
District
Courts.

30. District Judges shall appoint the ministerial officers of their Courts and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary.

Appointment
and removal
of ministerial
officers of
other Courts.

31. (1) The ministerial officers of the Civil Courts subject to the administrative control of the District Judge shall be appointed—

(a) in the case of an appointment not likely to last, and not lasting longer than two months, by those Courts, and

(b) in any other case, by the District Judge.

(2) An Additional Judge, Subordinate Judge or *Munsif* may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office.

Appointment,
and removal
of ministerial
officers on
joint estab-
lishments.

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely:—

(a) appointments not likely to last, and not lasting, longer than two months shall be made by the Court of the highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof; and

(b) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (a) of this

(Secs. 33-36.)

section is for the time being charged with the duty of making appointments to fill temporary vacancies

33. The District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies, and may, on appeal or otherwise, reverse or modify any order made under either of those sections by any Court under his administrative control. General powers of District Judge.

34. (1) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court Transfer of ministerial officers.

[¹] [Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section.]

(2) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits.

35. Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined. Recovery of fine.

CHAPTER VII

SUPPLEMENTARY PROVISIONS

36. (1) The Local Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,— Power to confer powers of Civil Courts on officers.

(a) any officer in the Chota Nagpur, [¹] Sambalpur, [Salpaur or Darjeeling district] [or in any part of the territories administered by the Chief Commissioner of Assam, except the district of Sylhet,] or,

(b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the Local Government with the previous sanction of the Governor General in Council.

(2) Nothing in sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive), or sections 27 to 35 (both inclusive), applies to any

[¹] Introduced by the Decentralisation Act, 1914 (4 of 1914), s. 2, Sch., Part I, para. 7, p. 742.

[²] This word "Sambalpur" was inserted by the Sambalpur Civil Courts Act, 1906 (Ben. Act 4 of 1906), s. 2.

(Secs. 37-38.)

officer so invested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(3) Where, in the territories mentioned in clause (a) of sub-section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a *Munsif*, the officer invested with the powers of a District Judge may, with the previous sanction of the Local Government, delegate his functions under sub-section (2) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a *Munsif*.

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction.

37. (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muham-madan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision except in so far as such law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

38. (1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested.

(2) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.

(3) When any such suit, proceeding or appeal as is referred to in sub-section (1) or sub-section (2) comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(4) The superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure.^[1]

[¹] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (Act 5 of 1908), and this reference should now be taken to be made to s. 24 of that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

Certain
decisions to
be according
to Native
law.

Judges not
to try suits
in which
they are in-
terested.

(Secs 39-40)

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court

39. For the purposes of the last foregoing section the presiding officer of a Court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and, for the purposes of the Code of Civil Procedure^[1] the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the District Judge

40. (1) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887 ^{Application of Act to Provincial Courts of Small Causes.} [2]

(2) Save as provided by that Act, the other sections of this Act do not apply to these Courts

[1] This reference should now be taken to be made to the Code of Civil Procedure, 1908 (Act 5 of 1908)—see s. 153 thereof in General Acts 1904-09, Ed 1909 p. 181.

[2] Printed in General Acts, 1887-97, Ed 1909, p. 10.

ACT 4 OF 1892.

(THE COURT OF WARDS ACT (BENGAL) AMENDMENT ACT, 1892.)[¹]

(25th March, 1892.)

10 An Act to Amend the Bengal Court of Wards Act, 1879.[²]

Whereas it is expedient to amend the Court of Wards Act, 1879,[³] passed by the Lieutenant-Governor of Bengal in Council; It is hereby enacted as follows:—

1. (1) This Act shall be read with, and taken as part of, the Act Constituted aforesaid;

(Commencement.) *Rep. by the Amending Act, 1903 (1 of 1903).*

2. In section 3, at the end of the clause defining "estate," the following words shall be added, namely:— Addition to section 2.

"and includes a share in or of an estate other than an undivided share held in coparcenary as the property of a Hindu joint family governed by the *Mitakshara* or *Mithila* law."

3. To section 6 the following clause shall be added, namely:— Addition to section 6.

(c) [Printed as part of Ben. Act 9 of 1879, in Vol. II of this Code.]

4. To section 7 the following proviso shall be added, namely:— Addition to section 7.
[Printed as part of Ben. Act 9 of 1879, in Vol. II of this Code.]

5. At the end of section 9 the following shall be added, namely:— Addition to section 9.
[The matter added to section 9 by this section has since been repealed—

by the Bengal Court of Wards (Amendment) Act, 1905 (Ben. Act 1 of 1906), s. 2, printed in Vol. III of this Code.

6. In section 10, in the place of the first two clauses the following shall be inserted, namely:— Amendment of section 10.

[Printed as part of Ben. Act 9 of 1879, in Vol. II of this Code.]

[¹] **SHORT TITLE.**—This short title was given by the Amending Act, 1907 (5 of 1907), s. 4, III—*see post*, p. 611.

LEGISLATIVE HISTORY.—For Statement of Objects and Reasons, *see* Gazette of India, 1922, Part V, p. 171; for Report of Select Committee, *see* *ibid.*, p. 231; and for Proceedings in Council, *see* *ibid.*, Pt. VI, pp. 20, 25 and 42.

LOCAL EXTENT.—Where this Act is (*see* s. 1) to be "read with and taken as part of" Bengal Act 9 of 1879, its local extent is the same as that of the latter Act, as to which *see* *post* to that Act, in Vol. II of this Code.

[²] Printed in Vol. II of this Code.

Substitution
of new
section 11.

7. For section 11 the following section shall be substituted, namely:—

[Printed as part of Ben. Act 9 of 1879, in Vol. II of this Code.]

Amendment
of section 12.

8. In section 12, for the words “which before the commencement of this Act was placed,” the following words shall be substituted, namely:—

“which either before or after the commencement of this Act was or is placed;”

and at the end of the first clause, after the figures “1858,” the following words shall be added, namely:—

“or under any other enactment for the time being in force.”

9. (*Repeal of proviso in Clause III, section 48.*) *Rep. by the Repealing and Amending Act, 1897 (5 of 1897).*

Amendment
of section 49.

10. In section 49, for the words “remains under the charge of the Court with his consent under section 11,” the following words shall be substituted namely:—

“is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11.”

Amendment
of section 56.

[¹] **11.** *In section 56, instead of the words “who has consented to leave his property under the charge of the Court of Wards, as provided in the second clause of section 11,” the following words shall be substituted, namely:—*

“whose property is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11.”

Addition to
section 60.

12. To section 60 the following words shall be added; namely:—

“or to assign over or charge any allowance to be received by him from the Court.”

Insertion of
new section
after section
60.

13. After section 60 the following section shall be inserted, namely:—

60A. [Printed as part of Ben. Act 9 of 1879, in Vol. II of this Code.]

[¹] S. 11 of this Act has been virtually repealed by the Bengal Court of Wards (Amendment) Act, 1906 (1. of 1906), s. 6, printed in Vol. III of this Code.

ACT 6 OF 1892.

(THE BENGAL MILITARY POLICE ACT, 1892) [1]

(25th March, 1892)

An Act for the Regulation of the Bengal Military Police.

Whereas it is expedient to make provision for the better regulation of the Bengal Reserve Police, It is hereby enacted as follows —

1. (1) This Act may be called the Bengal Military Police Act, 1892 This extent and com-
prehension
- (2) It extends to the whole of the territories subject to the Lieutenant-Governor of Bengal, [2] and
- (3) It shall come into force on such day [3] as the Local Government may, by notification in the Calcutta Gazette, appoint in this behalf
- 2 In this Act, unless there is something repugnant in the subject or ~~Definitive~~ context,—

(1) "Military Police officer" means a person, appointed to the Bengal Police Force under section 7 of Act 6 of 1861, [4] who has signed the statement in the Schedule to this Act, in accordance with the provisions of this Act

(2) "active service" means service against hostile tribes or other persons in the field

(3) "District Magistrate" includes a Deputy Commissioner, an Assistant Commissioner in charge of a sub-division [and the Superintendent of the South Lushai Hills]

(4) "Commandant" means a person appointed by the Local Government to be a Commandant of Military Police, and includes a District Superintendent of Police and an Assistant District Superintendent of Police in charge of the civil police of a district or of a sub-division

(5) "Second in Command" means a person appointed by the Local Government to be a Second in Command of Military Police, and includes

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons see Gazette of India, 1892 Part V, p. 22; and for Proceedings in Council, see *ibid.*, Part VI, pp. 22, 23 and 52.

LOCAL EXTENT.—This Act extended to the whole of the former Province of Bengal—see s. 1 (2). It is in force in the South Parganas—see Vol. IV, Part IV; but its application is barred in the Arga District, by the Arga Laws Regulation, 1923 (3 of 1923) s. 3 (7), *see cited post*, p. 324.

[2] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[3] The 1st May 1892—see the Calcutta Gazette 1892 Part I, p. 443.

[4] The Police Act, 1861. It is printed in the General Acts, 1861, Ed. 1877 p. 32.

(Secs. 3-5.)

an Assistant District Superintendent of Police not in charge of the civil police of a district or of a sub-division: and

(6) the expressions "reason to believe," "criminal force," "assault," "fraudulently" and "voluntarily causing hurt" have the meanings assigned to them respectively in the Indian Penal Code.^[1] 45

Enrolment
and dis-
charge of
Military
Police-
officers.

3. (1) Before an officer appointed to the Bengal Police Force under section 7 of Act 5 of 1861^[2] is appointed to be a Military Police-officer, the statement in the Schedule shall be read and if necessary explained to him in the presence of a Magistrate, Commandant or Second-in-Command, and shall be signed by him in acknowledgment of its having been so read to him.

(2) Notwithstanding any notice given under section 9 of Act 5 of 1861^[2] a Military Police-officer shall not be entitled to be discharged from the Bengal Police Force except in accordance with the terms of the statement which he has signed under this Act.

Classes and
grades of
Military
Police
officers.

4. (1) There may be all or any of the following classes of Military Police-officers, which shall take rank in the order mentioned, namely:—

- | | |
|-------------------------------|----------------------------|
| (i) <i>subadars-major</i> , | (v) <i>havildars</i> , |
| (ii) <i>subadurs</i> , | (vi) <i>naiks</i> , |
| (iii) <i>jamadars</i> , | (vii) <i>buglers</i> , and |
| (iv) <i>havildars-major</i> , | (viii) <i>sépoy</i> s, |

and such grades in each class as the Local Government may direct.

(2) The expression "superior officer" in this Act means in relation to any Police-officer:—

- (a) any officer of a higher class than or of a higher grade in the same class as himself, and
- (b) any Second-in-Command, Commandant or District Magistrate.

5. A Military Police-officer who—

- (a) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, does not without delay give information thereof to his commanding or other superior officer; or

^[1] Printed in the General Acts, 1834-67, Ed. 1909, p. 248.

^[2] The Police Act, 1861. It is printed in the General Acts, 1834-67, Ed. 1909, p. 378.

More
heinous
offences

(Sec. 6.)

- (b) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty; or
- (c) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge or which it is his duty to defend; or
- (d) directly or indirectly holds correspondence with, or assists or relieves any person in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge: or

who, while on active service,—

- (e) disobeys the lawful command of his superior officer; or
- (f) deserts the service; or
- (g) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave; or
- (h) without authority leaves his commanding officer, or his post or party to go in search of plunder; or
- (i) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or
- (j) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard, or without authority breaks into any house or any other place for plunder, or plunders, destroys or damages any property of any kind; or
- (k) intentionally causes or spreads a false alarm in action, camp, garrison or quarters,

shall be punished with transportation for life or for a term of not less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months' pay, or with fine to that extent in addition to such sentence of transportation or imprisonment, as the case may be, as may be passed upon him under this section.

G. A Military Police-officer who—

- (a) is in a state of intoxication when on or for any duty or on parade or on the line of march; or
- (b) strikes or attempts to force any sentry; or
- (c) being in command of a guard, picquet or patrol refuses to receive any prisoner duly committed to his charge, or

Section 6, Bengal Military Police Act, 1892.

(Sec. 6.)

without proper authority releases any prisoner, or negligently suffers any prisoner to escape; or

- (d) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; or
- (e) is grossly insubordinate or insolent to his superior officer in the execution of his office; or
- (f) refuses to superintend or assist in the making of any field-work or other work of any description ordered to be made either in quarters or in the field; or
- (g) strikes or otherwise ill-uses any military Police-officer subordinate to him in rank or position; or
- (h) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made as far as possible to the injured person and to report the case to the proper authority; or
- (i) designedly or through neglect injures or loses, or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements or Military Police necessities, or any such articles entrusted to him or belonging to any other person; or
- (j) malingers, or feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or
- (k) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

who, while not on active service,—

- (l) disobeys the lawful command of his superior officer; or
- (m) plunders, destroys or damages any property of any kind; or
- (n) being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or
- (o) deserts the service;

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay or with both.

(Secs 7-10)

7. (1) A District Magistrate, Commandant or Second in Command, ^{Magistrate} or an officer not being below the rank of *subadar* commanding a separate detachment or an outpost or in temporary command at the head-quarters of a district during the absence of the District Magistrate, Commandant and Second in Command may, without a formal trial, award to any Military Police-officer who is subject to his authority any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say—

- (a) imprisonment to the extent of seven days in the quarter guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance,
- (b) punishment drill, extra guard, fatigue, or other duty, not exceeding thirty days in duration, with or without confinement to quarters

(2) Any one of these punishments may be awarded separately or in combination with any one or more of the others

8. A person sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the Bengal Police Force, be imprisoned in the nearest or such other jail as the Local Government may, by general or special order, direct, but, when he is not also dismissed from that force he may, if the convicting officer or District Magistrate, so directs, be confined in the quarter-guard or such other place as the convicting officer or District Magistrate may consider suitable

9. (1) Nothing in this Act shall prevent any person from being prosecuted under Act 6 of 1861 [1] or under any order or rule made under that Act or under any other enactment for the time being in force for any act or omission punishable hereunder, or from being liable, if so prosecuted, to any other or higher penalty than is provided for that act or omission by this Act

(2) Provided that no person shall be punished twice for the same offence

10. Notwithstanding anything in Act 6 of 1861 [1] or in any other enactment for the time being in force, the Local Government may invest any Police-officer, not below the rank of Commandant, with the

[1] The Police Act 1861. It is printed in the General Act 1861, Pt. 1, p. 33

(Secs. 11-13.)

powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by a Military Police-officer and punishable under Act 5 of 1861^[1] or this Act.

Disciplinary and other powers of Commandant and Second-in-Command of Military Police otherwise than in respect of Military Police. Privileges of Commandant and Second-in-Command of Military Police as Police-officers.

11. Subject to such rules^[2] as the Local Government may make in this behalf, a Commandant or Second-in-Command of Military Police shall have, with respect to Police-officers appointed to the Bengal Police Force under section 7 of Act 5 of 1861^[1] who are not Military Police-officers, the same disciplinary powers as a District Superintendent of Police has with respect to them under that section.

12. A Commandant or Second-in-Command of Military Police shall be entitled to all the privileges which a Police-officer has under sections 42 and 43 of Act 5 of 1861,^[1] section 125^[3] of the Indian Evidence Act, 1872, and any other enactment for the time being in force.

13. The Local Government may, as regards the Military Police, make such orders and rules,^[4] consistent with this Act, as it thinks expedient.

Power to make rules.

SCHEDULE.

STATEMENT.

(See sections 2 and 3.)

After you have served for three years in the Bengal Military Police, you may, at any time when not on active service, apply for your discharge through the officer to whom you may be subordinate, to a Commandant of Military Police or to the District Magistrate of the district in which you may be serving, and you will be granted your discharge after two months from the date of your application unless your discharge would cause the vacancies in the Bengal Military Police to exceed one-tenth of the sanctioned strength; in that case you must remain until this objection is waived by competent authority or removed. But when on active service you have no claim to a discharge, and you must remain

^[1] The Police Act, 1861. It is printed in the General Acts, 1834-67, Ed. 1909, p. 378.

^[2] For rules made under s. 11, see the Bihar and Orissa Local Statutory Rules and Orders, 1912, Vol. I, Part IV.

^[3] Printed in the General Acts, 1868-78, Ed. 1909, p. 241.

^[4] For rules made under s. 13, see the Bihar and Orissa Local Statutory Rules and Orders, 1912, Vol. I, Part IV.

(Sec. 13.)

and do your duty until the necessity for retaining you in the Bengal Military Police ceases when you may make your application in the manner hereinbefore prescribed. In the event of your re-enlistment, after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge.

(Signature of Police-officer in acknowledgment of the above having been read to him.)

A. B.

Signed in my presence after I had ascertained that *A. B.* understood the purport of what he signed.

C. D.

Magistrate. Commandant or Second in Command.

ACT 2 OF 1893.[1]

THE PORAHAT ESTATE ACT, 1893.

(3rd February, 1893.)

An Act to annex the Estate of Porahat to the Singhbhum District, and for certain other purposes.

Whereas the estate of Porahat was confiscated by the British Government in the year 1858 and is now under the administration of the officer holding the appointment of Deputy Commissioner of the Singhbhum District;

And whereas the said estate has, by proclamation, been declared and appointed by the Governor General in Council to be subject to the Lieutenant-Governorship of Bengal;

And whereas it is expedient that the said estate should be annexed to the Singhbhum District, and should, as forming part of that district, be declared for the purposes of the Scheduled Districts Act, 1874,[2] to form part also of the scheduled district described in that Act as the Chota Nagpur Division:

It is hereby enacted as follows:—

1. (1) This Act may be called the Porahat Estate Act, 1893; Title.

[Commencement.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

2. The estate of Porahat shall henceforth become and be part of the Singhbhum District. Annexation of Porahat estate to Singhbhum District.

3. The said estate of Porahat, as forming part of the Singhbhum District, shall form part of the scheduled district described in Part III of the first schedule to the Scheduled Districts Act, 1874,[2] as the Chota Nagpur Division. Estate to become part of the scheduled district of Chota Nagpur.

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1892, Part V, p. 63; and for Proceedings in Council, see *ibid*, Part VI, 1892, p. 63, Part VI, 1893, p. 34.

LOCAL EXTENT.—This Act applies only to the Porahat Estate, in the District of Singhbhum.

THE PORAHAT ESTATE.—Several enactments have been made relating to the Porahat Estate, by Notification under the Scheduled Districts Act, 1874, No. 2226, dated the 2nd August, 1876, No. 447, dated the 12th November, 1877, printed in Vol. V, Part VC. These Notifications are not exhaustive—see para. 16 of the note in Vol. V, Part VA.

[2] Printed in General Acts, 1903, p. 442.

(Sec. 4.)

Validation
acts done
since the
beginning of
1858.

4. All acts of executive authority, proceedings, decrees and sentences which have been done, taken or passed in or with respect to the said estate of Porahat since the beginning of the year 1858, and before the commencement of this Act, by an officer of the Government or by any person acting under his authority or otherwise in pursuance of an order of the Government and which have been or shall be ratified by the Lieutenant-Governor of Bengal, shall be deemed to have been done, taken and passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

ACT 11 OF 1893

(THE TRIBUTARY MAHALS OF ORISSA ACT, 1893) [1]

(21st September, 1893)

An Act to make provision for certain matters connected with the Tributary Mahals of Orissa.

Whereas it is expedient * * * [2] to indemnify certain persons and validate acts done by them in, or in relation to, the said *Mahals* and to admit of certain sentences passed in those *Mahals* being carried into effect in British India, It is hereby enacted as follows —

1. (1) This Act may be called the Tributary Mahals of Orissa Act, 1893

Title and extent.

(2) It extends to the whole of British India,

(Commencement) *Rep by the Amending Act, 1903 (1 of 1903)*

2. (Repeal) *Rep by the Amending Act, 1903 (1 of 1903)*

3. No suit, prosecution or other proceeding shall be begun or continued in respect of any act done before the commencement of this Act by any officer of the Government in respect of any of the Tributary Mahals of Orissa or any inhabitant thereof, such act purporting to have been done in the exercise of executive or judicial authority, and having, before or after the commencement of this Act, been ratified by the Government, and every such act is hereby confirmed and made valid, and every such officer indemnified and discharged from liability in respect thereof

Indemnity in respect of acts done before the commencement of this Act.

4. (1) The Lieutenant Governor of Bengal [3] may authorize [4] the reception, detention or imprisonment in any place under his Government, for the period specified in the sentence, of—

Execution in British India of certain sentences passed in Tributary Mahals

(a) any person sentenced to imprisonment or transportation for any term by any Court or tribunal acting under the

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1893, Part V, p. 96; and for Proceedings in Council, see *ibid*, Part VI, pp. 191, 196, 202 and 203.

LOCAL EXTENT.—This Act extends to the whole of British India—see s. 1 but is printed in this Code because it has been omitted from the General Acts, Ed 1909

[2] The words to repeal certain enactments relating to the Tributary Mahals of Orissa and which were repealed by the Amending Act 1903 (1 of 1903) are omitted

[3] Now the Lieutenant-Governor in Council of Bihar and Orissa—see the Bengal, Bihar and Orissa Laws Act, 1912 (7 of 1912), s. 3 and sch. D, item 8 *post*, p. 727

[4] For an order made under s. 4 (1) see the Bihar and Orissa Local Statutory Rules and Orders 1912 Vol. I Part IV

(Sec. 4. *The Schedule.*)

authority of the British Government in, or in respect of, any Tributary *Mahal* in Orissa;

- (b) any Native Indian subject of Her Majesty residing in any such *Mahal*, or any Native subject of a Chief of any such *Mahal*, when, in either case such Native subject as afore-said has been sentenced by such a Chief or by a subordinate Court of such a Chief to imprisonment for a term exceeding six months.

(2) The place or places within the territories subject to the Lieutenant-Governor of Bengal^[1] in which persons may be received, detained or imprisoned under sub-section (1) shall be such as the said Lieutenant-Governor^[2] may, by general or special order, direct.

(3) A sentence shall be of the same force and effect in the place in which it may be carried into effect under this section as if it had been passed by a competent Court in that place.

THE SCHEDULE.

ENACTMENTS REPEALED.

Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

[¹] This includes the present Province of Bihar and Orissa except the district of Sambalpur.

[²] Now the Lieutenant-Governor in Council of Bihar and Orissa—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3 and Sch. D, item 8, *post*, p. 727.

ACT 6 OF 1897.

(THE AMENDING ACT, 1897.)^[1]

(25th February, 1897.)

An Act * * * ^[2] to amend and facilitate the citation of certain * ^[3] enactments.

* * * * *

* ^[4] whereas it is * ^[4] expedient that certain formal amendments should be made in the enactments specified in the second Schedule to this Act;

And whereas it is also expedient to facilitate the citation of the enactments specified in the third Schedule to this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the * ^[5] Amending Act 1897; Title and
commence-
ment.

(2) It shall come into force at once.

2. (1) (*Repeals.*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

(2) The enactments specified in the second Schedule shall be modified Enactments
in second
Schedule
amended. to the extent and in the manner mentioned in the fourth column thereof.

3. (*Savings.*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1897, Part V, p. 50, and for Proceedings in Council, see *ibid.*, Part VI, pp. 41 and 44.

LOCAL EXTENT.—Since this Act has no "local extent" clause, it must (so far as applicable) be taken to extend to the whole of British India. It is printed in this Code because portions of the Schedules are omitted from the Act as published in the General Acts, Ed. 1909. So much of the Act as affects enactments in force in Angul or the Sonthal Parganas is also in force in those tracts by virtue of—

the Angul District Regulation, 1894 (1 of 1894), s. 3 (1), *post*; and the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by Regulation 3 of 1899, s. 3, *post*, 632.

OTHER ACTS CONCERNING SHORT TITLES.—For other Acts which confer short titles on a series of enactments, see the Indian Short Titles Act, 1877 (14 of 1877), in General Acts, 1877 97, Ed. 1909, p. 556, and the Amending Act, 1903 (1 of 1903), *post*.

The Short Titles Act now in force in England is 59 & 60 Vict., c. 14, printed in the Collection of Statutes relating to India, Vol. 11, Ed. 1901, p. 1255.

[2] The words "to repeal certain obsolete enactments and," in the title, which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[3] The word "other," in the title, which was repealed by the Amending Act, 1903 (1 of 1903), is omitted.

[4] Portions of the preamble which were repealed by the Amending Act, 1903 (1 of 1903), are omitted here.

[5] The words "Repealing and," in s. 1 (1), which were repealed by the Amending Act, 1903 (1 of 1903), are omitted.

[6] *Rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3, Sch. 11, post.*

(Sec. 4. The First Schedule. The Second Schedule.)

Citation of
certain enact-
ments.

4. Each of the enactments described in the first three columns of the third Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

THE FIRST SCHEDULE.

Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

THE SECOND SCHEDULE.

1	2	3	4
Year.	No.	Short title or subject.	Amendment.

Part I.—Act of the Governor General in Council.

* | * | * | *

Part II.—Acts of the Lieutenant-Governor of Bengal in Council.

[¹]*	*	* *	* * *
[²]*	*	* *	* * *
1884	3 [⁴]	Bengal Municipal Act, 1884.	In section 37 J. (inserted by Bengal Act 4 of 1894, section 23), for the Loans Act, 1879, read the Local Authorities Loan Act, 1879.
			In section 219 (as amended by Bengal Act 4 of 1894, section 64), for or two hundred and ten, two hundred and ten A read 210 or 210A.
1887	2 [⁴]	Vaccination (Amending Bengal Act 5 of 1880).	To section 3 add :— "The Schedule hereto annexed shall be annexed as The First Schedule to the Bengal Vaccination Act, 1880."
[⁵]*	*	*	* *

[¹] The entry relating to Act 1 of 1882 is omitted, as having been repealed by the Assam Labour and Emigration Act, 1901 (6 of 1901).

[²] The entry relating to Act 8 of 1862 is omitted, as having been repealed by the Repealing and Amending Act, 1914 (10 of 1914), s. 3, Sch. II, *post*.

[³] The entry relating to Ben. Act 1 of 1883 is omitted, as having been repealed by the Bengal Excise Act, 1909 (Ben. Act 5 of 1909).

[⁴] Printed in Vol. II of this Code.

[⁵] The entry relating to Bengal Act 1 of 1889 is omitted, as having been repealed by the Assam Labour and Emigration Act, 1901 (6 of 1901), printed *post*, p. 621.

(The Second Schedule.)

THE SECOND SCHEDULE—concl'd.

1	2	3	4
Year.	No.	Short title or subject.	Amendment.

Part III.—Regulations made under the Government of India Act, 1870 (3 Vict. c. 3).

1883	1 ^[1]	Sylhet and Cachar Rural Police Regulation, 1883.	In section 18, clause 10th, for the Indian Forest Act, 1878, read the Assam Forest Regulation, 1891.
1886	1 ^[1]	Assam Land and Revenue Regulation, 1886.	To section 1 add:— (3) The Chief Commissioner may, in like manner amend, vary or rescind any notification issued under subsection (2).

Part IV.—Regulations of the Bengal Code.

1806	11 ^[2]	Passage of Troops . . .	In section 4, clause third, for Governor General in Council, in each place in which those words occur, read Local Government.
1812	11 ^[2]	Removal of Foreign Immigrants	In section 5, clause second, for to the Nizamat Addlat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper, read to the Local Government, and the Local Government shall pass such orders thereon as it may think fit. For Governor General in Council, wherever those words occur, read Local Government.
1823	7 ^[3]	Loans to Covenanted Officers.	In section 3, for the words from All Judges to powers of such Collector read All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners, being members of the Indian Civil Service. In section 6 and also in section 8, for Governor General in Council read Local Government. In section 8, for Government read the Local Government.

[¹] Regulations 1 of 1883 and 1 of 1886 relate only to Assam.[²] The Bengal Troops Transport and Travellers' Assistance Regulation, 1806. It is printed *ante*, p. 119.[³] The Bengal Foreign Immigrants Regulation, 1812. It is printed *ante*, p. 127.[⁴] The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823. It is printed *ante*, p. 279.

(The Third Schedule.)

THE THIRD SCHEDULE.

1	2	3	4
Year.	No.	Subject.	Short title.

Part I.—Local Acts of the Governor General in Council in force in Assam.

1850	25 [1]	For the forfeiture to Government of deposits made on incomplete sales of land under Regulation 8, 1819.	The Forfeited Deposits Act, 1850.
*	*	*	*
	33 [2]	For amending the forms necessary for the sale of patni tenures in Bengal.	The Sale of Patni Tenures Act, 1850.
1853	6 [3]	Relating to summary suits for arrears of rent, to sales of patni taluks and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.	The Rent Recovery Act, 1853.
„	19 [4]	To amend the law of evidence in the Civil Courts of the East Indian Company in the Bengal Presidency.	The Recusant Witnesses Act, 1853.
1856	12 [4]	To amend the law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William.	The Civil Courts Amins Act, 1856.
1867	3	To provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burma.	The Public Gambling Act, 1867.

[1] Printed ante, p. 353.

[2] Act 33 of 1850 has been repealed by the Amending Act, 1903 (1 of 1903).

[3] Printed ante.

[4] Act 19 of 1853 has been repealed (except in Assam) by the Amending Act, 1903 (1 of 1903).

[5] Act 12 of 1856 has been repealed in Bengal by the Bengal Civil Court Amins Act, 1899 (Ben. Act 2 of 1899).

(The Third Schedule.)

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.

*Part I.—Local Acts of the Governor General in Council in force in Assam—**concl'd.***

1871	19 ^[1]	To provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.	The Bengal Sessions Courts Act, 1871.
1874	8 ^[2]	To provide for the exercise of the powers hitherto exercised by the Lieutenant Governor and Board of Revenue of Bengal in the territories forming the Chief Commissionership of Assam.	The Assam Chief Commissionership Act, 1874.
"	12 ^[2]	To provide for the exercise, in Sylhet, of the powers of the Lieutenant-Governor and Board of Revenue in Bengal.	The Sylhet Act, 1874.
1878	3 ^[3]	To amend the Northern India Ferries Act, 1878	The Northern India Ferries Act Amendment Act, 1878 ^[4]
1892	4 ^[5]	To amend the Bengal Court of Wards Act, 1879 (Act 9 (B. C.) of 1879)	The Court of Wards Act (Bengal) Amendment Act, 1892.

Part II.—Regulation made under the Government of India Act, 1870 (33 Vict., c. 3).

1880	3 ^[6]	To empower the extension of the Assam Frontier Tracts Regulation, 1880, to certain tracts in Assam and to declare that Act 10 of 1872 (the Code of Criminal Procedure) shall be deemed never to have come into force in the Garo Hills District, the Nāgā Hills District and the Khasi and Jaintia Hill Districts	The Assam Frontier Tracts Regulation, 1880
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[¹] Act 19 of 1871 has been repealed by the Amending Act, 1903 (1 of 1903).[²] Acts 8 and 12 of 1874 were repealed by the Bengal and Assam Laws Act, 1905 (7 of 1905).[³] Act 3 of 1878 does not apply to any part of Bengal.[⁴] See *End* 1878[⁵] Printed *act*, p. 892.[⁶] Reg. 3 of 1880 relates only to Assam.

(The Third Schedule.)

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III—Regulations of the Bengal Code in force in Assam.</i>			
1793	1 [1]	For enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793.	The Bengal Permanent Settlement Regulation, 1793.
"	2 [1]	For abolishing the Courts of <i>Mal Adalat</i> or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of <i>Diwani Adalat</i> ; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.	The Bengal Land-Revenue Regulation, 1793.
"	8 [1]	For re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the <i>zamindars</i> , independent <i>talukdars</i> and other actual proprietors of land, in Bengal, Bihar and Orissa, passed for those provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	The Bengal Decennial Settlement Regulation, 1793.
"	11 [1]	For removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government.	The Bengal Inheritance Regulation, 1793.

(The Third Schedule)

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year	No.	Subject.	Short title

Part III—Regulations of the Bengal Code in force in Assam—contd.

1793	33 ^[1]	For re-enacting with modifications, such part of the rule passed on the 27th June, 1787, as prohibits Covenanted Civil Servants of the Company employed in the administration of justice on the collection of the public revenue lending money to <i>zamindars</i> independent <i>talukdars</i> or other actual proprietors of land, or dependent <i>talukdars</i> or farmers of land holding farms immediately of Government, or the under farmers or <i>rayats</i> of the several descriptions of proprietors or farmers of land above mentioned, or their respective sureties.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793
1799	5 ^[1]	To limit the interference of the <i>Zila</i> Court of <i>Durdani Adalat</i> in the execution of wills and administration to the estates of persons dying intestate	The Bengal Wills and Intestacy Regulation, 1799
1800	10 ^[1]	For preventing the division of landed estates in the <i>Jangal Mahals</i> of the <i>Zila</i> of Mirzapore and other districts.	The Bengal Inheritance Regulation, 1800
1804	10 ^[1]	For declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts martial	The Bengal State Offences Regulation, 1804

(The Third Schedule.)

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.

Part III.—Regulations of the Bengal Code in force in Assam—contd.

1806	11 [1]	For facilitating the progress of detachments of troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories.	The Bengal Troops Transport and Travellers Assistance Regulation, 1806.
1812	11 [1]	To empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.	The Bengal Foreign Immigrants Regulation, 1812.
1818	3 [1]	For the confinement of State Prisoners.	The Bengal State Prisoners Regulation, 1818.
1819	8 [1]	To declare the validity of certain tenures, and to define the relative rights of <i>zamindars</i> and <i>patni talukdars</i> ; also to establish a process for the sale of such <i>taluks</i> in satisfaction of the <i>zamindar's</i> demand of rent.	The Bengal Patni Taluks Regulation, 1819.

(The Third Schedule.)

THE THIRD SCHEDULE—concl'd.

1	2	3	4
Year	No	Subject	Short title

Part III.—Regulations of the Bengal Code in force in Assam—concl'd.

1820	1 ^[1]	For providing that all sales of certain <i>taluks</i> made answerable by sale for arrears by the <i>zamindar</i> a rent shall be conducted in the mode provided by Regulation 8, 1810, for the sales therein described.	The Bengal Patni Taluks Regulation, 1820.
1823	7 ^[1]	For prohibiting loans by Covenanted Civil Servants from persons subject to their official authority and influence.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.
1825	6 ^[1]	For rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.	The Bengal Troops Transport Regulation, 1825
"	11 ^[1]	For declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.	The Bengal Alluvion and Diluvion Regulation, 1825.
1827	3 ^[1]	For modifying and amending the rules in force relative to the law officers and ministerial native officers of the Courts of Judicature, who may be guilty of corruption or extortion.	The Bengal Corruption and Extortion Regulation, 1827
"	5 ^[1]	For modifying the rules at present in force for the management of estates under attachments by orders of the Courts of Justice in certain cases.	The Bengal Attached Estates Management Regulation, 1827
1829	17 ^[1]	For declaring the practice of <i>Sati</i> or of burning or starving alive the widows of Hindus illegal and punishable by the Criminal Courts.	The Bengal Sati Regulation, 1829

ACT 6 OF 1901

(THE ASSAM LABOUR AND EMIGRATION ACT, 1901.)

CONTENTS

CHAPTER I

PRELIMINARY

SECTION

- 1 Short title, extent and commencement
- 2 Definitions
- 3 Local Government may prohibit recruitment, etc., for emigration to any labour-district or part thereof either absolutely or otherwise than under certain provisions of Act
- 4 Appointment of officers

CHAPTER II

LABOUR-CONTRACTS GENERALLY

- 5 Essentials of labour-contracts
- 6 Contracts not enforceable as labour-contracts unless made in accordance with section 5
- 7 In absence of specific obligation, under ground labour not obligatory
- 8 Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour district.
- 9 Persons who may enter into labour-contracts
- 10 Power of Local Government to cancel contract in case of wrongful recruitment.
- 11 Power to cancel contract of labourer related to labourer whose contract is cancelled
- 12 Repatriation of labourers whose contracts are cancelled
- 13 Escort for repatriated labourer

CHAPTER III

RECRUITMENT BY CONTRACTORS, SUB-CONTRACTORS AND RECRUITERS.

Contractors and Sub-contractors

- 14 Licensing of contractors and sub-contractors.
- 15 Fee for, and form of, contractors and sub-contractors' licenses
- 16 Duration of contractors' and sub-contractors' licenses and cancellation thereof
- 17 Duties of contractors.
- 18 Sub-contractor to act on behalf of only one contractor
- 19 Contractor or sub-contractor acting as recruiter
- 20 Liability of contractors for sub-contractors' and recruiters' acts and defaults.
- 21 Contractor to establish depôts.
- 22 Inspection and supervision of depôts.
- 23 Establishment of hospital-depôts
- 24 Contractor to contribute towards establishment and maintenance of hospital-depôts.

Recruiters.

SECTION.

25. Licensing of recruiters.
26. Form of, and fee for, recruiter's license.
27. Duration of recruiter's license.
28. Recruiter to hold certificate from contractor or sub-contractor.
29. Magistrate's countersignature of recruiter's license.
30. Magistrate to supervise accommodation.
31. Cancellation of Magistrate's countersignature in certain cases.

Procedure before arrival at Dépôts.

32. Intending labourer to be taken for examination to medical officer.
33. If certified to be fit, intending labourer to be brought before Registering-officer.
34. Examination and registration of intending labourer.
35. Arrangements to be made for return to home of intending labourer whose registration is refused.
36. Copy of registration to be given to labourer.
37. Copy of registration and medical certificate to be sent to Superintendent.
38. Fee for registration.
39. Recruiter when to remove person to dépôt.
40. Conveyance of labourer to dépôt.
41. Recruiter to provide food and lodging for labourer on journey.

Procedure at Contractors' Dépôts.

42. Contractor to report arrival of labourer.
43. Duties of Medical Inspector.
44. On grant of certificate, labourer to enter into labour-contract.
45. Contract to be explained to labourer by Superintendent, and abstract and copies to be made.
46. Power for employer to require further medical certificate as to fitness to labour previous to contract.
47. Fee of medical officer when in Government service for examination under section 46.
48. Power to cancel contract and order payment of expense of return of labourer in certain cases.
49. Labourer when to be lodged, etc., at dépôt till he can return home.
50. Like provisions in case of dependants and relatives.
51. Compensation to labourer for ill-treatment on the journey.
52. Procedure when dependant declared unfit to proceed to labour-district.
53. Labourer and relatives entitled to be returned with dependant.
54. Failure of contractor to pay sums ordered to be paid under sections 48 to 53.
55. Provisions as to escort on journey and way-bill.

CHAPTER IV.

RECRUITMENT BY GARDEN-sardars AND LOCAL AGENTS.

Garden-sardar.

56. Employer may grant certificate to garden-sardar.
57. Form and particulars to be contained in such certificate.
58. Certificate to be accepted and signed in presence of Inspector or Magistrate.
59. Inspector's or Magistrate's countersignature of certificate.
60. Provision for grant of fresh certificate.
61. Certificate when to come into force, and duration thereof.
62. Accommodation to be provided by garden-sardar.
63. Cancellation of certificate in certain cases.

Local Agents.

SECTION

- 64 Licensing and duties of local agents
- 65 Selecting agent
- 66 Prosecution of garden-sardars by local agents
- 67 Cancellation of licenses of local agents

Procedure to be followed by Garden sardars

- 68 Garden sardar and labourer to appear before Registering-officer for registration.
- 69 Examination and registration of persons engaged by garden sardar
- 70 Medical examination
- 71 Fee to be paid for every labourer produced for registration
- 72 Labour-contract to be executed
- 73 Procedure when employer requires medical examination previous to registration
- 74 Fee of medical officer when in Government service for examination under section 73
- 75 Garden sardar when to remove labourer to labour-district
- 76 Garden-sardar to accompany labourers or send competent person with them
- 77 No restriction on number of persons engaged by garden sardar
- 78 Appointment in certain cases of garden sardar to accompany labourers not engaged by him
- 79 Provision for way bill
- 80 Garden sardar to provide food and lodging for labourers and dependants on journey
- 81 Power for Magistrate in certain cases to award compensation or cancel contract
- 82 Procedure on failure of garden sardar to comply with order
- 83 Medical inspection of labourers en route
- 84 Detention and return of labourer declared when en route to be unfit to travel
- 85 Dependants of labourer when to be fed, etc.
- 86 Payment of expenses of detention and return journey of labourer
- 87 Representative of employer may procure order from Superintendent cancelling the labour-contract on payment of expense of return
- 88 Cancellation of contracts of relatives.
- 89 Cost of escort for repatriated labourer

CHAPTER V.

ENGAGEMENT OF EMIGRANTS OTHERWISE THAN UNDER CHAPTERS III AND IV

- 90 Special provisions as to engagement of emigrants through garden-sardars
- 91 Power to Local Government to relax certain provisions of Act.
- 92 Baving of engagement of emigrants otherwise than under foregoing provisions of Act
- 93 Application of Act to persons engaged under this Chapter

CHAPTER VI.

TRANSPORT.

Routes, etc.

- 94 Routes to be followed and rules observed.

Transport by River.

- 95 Transport by sea to labour-districts.
- 96 Vessels to carry more than twenty passengers to be and rarely licensed.

Recruiters.

SECTION.

25. Licensing of recruiters.
26. Form of, and fee for, recruiter's license.
27. Duration of recruiter's license.
28. Recruiter to hold certificate from contractor or sub-contractor.
29. Magistrate's countersignature of recruiter's license.
30. Magistrate to supervise accommodation.
31. Cancellation of Magistrate's countersignature in certain cases.

Procedure before arrival at Depôts.

32. Intending labourer to be taken for examination to medical officer.
33. If certified to be fit, intending labourer to be brought before Registering-officer.
34. Examination and registration of intending labourer.
35. Arrangements to be made for return to home of intending labourer whose registration is refused.
36. Copy of registration to be given to labourer.
37. Copy of registration and medical certificate to be sent to Superintendent.
38. Fee for registration.
39. Recruiter when to remove person to depôt.
40. Conveyance of labourer to depôt.
41. Recruiter to provide food and lodging for labourer on journey.

Procedure at Contractors' Depôts.

42. Contractor to report arrival of labourer.
43. Duties of Medical Inspector.
44. On grant of certificate, labourer to enter into labour-contract.
45. Contract to be explained to labourer by Superintendent, and abstract and copies to be made.
46. Power for employer to require further medical certificate as to fitness to labour previous to contract.
47. Fee of medical officer when in Government service for examination under section 46.
48. Power to cancel contract and order payment of expense of return of labourer in certain cases.
49. Labourer when to be lodged, etc., at depôt till he can return home.
50. Like provisions in case of dependants and relatives.
51. Compensation to labourer for ill-treatment on the journey.
52. Procedure when dependant declared unfit to proceed to labour-district.
53. Labourer and relatives entitled to be returned with dependant.
54. Failure of contractor to pay sums ordered to be paid under sections 48 to 53.
55. Provisions as to escort on journey and way-bill.

CHAPTER IV.

RECRUITMENT BY GARDEN-sardars AND LOCAL AGENTS.

Garden-sardar.

56. Employer may grant certificate to garden-sardar.
57. Form and particulars to be contained in such certificate.
58. Certificate to be accepted and signed in presence of Inspector or Magistrate.
59. Inspector's or Magistrate's countersignature of certificate.
60. Provision for grant of fresh certificate.
61. Certificate when to come into force, and duration thereof.
62. Accommodation to be provided by garden-sardar.
63. Cancellation of certificate in certain cases.

Regulation of Labour

SECTION

- 124 Schedule of daily tasks to be prepared
- 125 Limitation on tasks and payment of wages
- 126 Provisions for revision of schedule by Inspector subject to appeal to Committee.
- 127 Committee to revise schedule.
- 128 Provision for weakly labourers

Incapacity for Labour

- 129 Inspector may suspend contract of any labourer temporarily unfitted for labour
- 130. Labourer absent from sickness
- 131 Discharge of labourer permanently incapacitated

Accommodation for Labourers

- 132. House-accommodation, water-supply and sanitary arrangements for labourers
- 133 Supply of food grain for labourers.
- 134 Provisions for rationing
- 135 Provision for hospital accommodation and medical attendance
- 136 Inquiry whether employer has failed to provide accommodation, etc., as required by the rules

Localities unfit for the Residence of Labourers

- 137 Report by Inspector and inquiry by Committee.
- 138. Inquiry by Committee by order of Local Government
- 139 Proceedings of Committee.
- 140 Finding of Committee and consequences
- 141 Power for Local Government to pass orders on proceedings of Committees.
- 142 Excessive mortality on estates
- 143 Medical officer to report
- 144 Power for Local Government to declare estate unfit for residence.
- 145 Power for Inspector to certify fitness of estate or portion found or declared to be unfit.

Complaints made by Labourers

- 146. Labourer wishing to complain of personal ill usage or breach of Act to be sent by employer to Inspector or Magistrate.
- 147 Inspector or Magistrate how to proceed in case of complaint.
- 148. Untrue or frivolous complaints
- 149 Award of compensation to employer
- 150. Complaints disclosing grounds for further proceedings.
- 151 Recovery of arrears of wages and compensation
- 152. Power to cancel contract on conviction of employer or accumulation of arrears of wages.
- 153. Power to Local Government to cancel contracts of labourers whose condition is unsatisfactory owing to insufficiency of earnings.
- 154 Power to cancel contract of labourer related to labourer whose contract is cancelled or determined

Determination of Labour-contracts

- 155. Endorsement of determination on labour-contract.
- 156. Power to redeem labour-contract.
- 157 Power to equalize terms of contract in case of husband and wife

Repatriation of Labourers and Others

- 158. Repatriation of labourer whose contract has determined under section 151
- 159 Repatriation of persons emigrating not under labour-contract who are physically incapacitated

SECTION.

- 97. Application for license.
- 98. Grant of license.
- 99. Fee for license.
- 100. Embarkation Agent may limit number to be received on board on any particular voyage.
- 101. Master to make returns.
- 102. Provisions, clothing, medical and other officers, cooks, etc.
- 103. Medical officer to be licensed.

Departure of Passenger-vessels and procedure during voyage. —

- 104. Embarkation Agent may order departure of vessel if delay occurs.
- 105. Master to receive way-bills from Embarkation Agent.
- 106. Labourers not finally to leave vessel at any place other than that mentioned in way-bill.
- 107. Master to stop his vessel at certain places where there is a Magistrate.
- 108. Power for Magistrates to inspect vessels.
- 109. Power for Magistrates to regulate communication between vessels and land.
- 110. Power for Magistrates to detain vessels for inspection and to detain sick native passengers.
- 111. Detention of sick labourers by Magistrate.
- 112. Power for Magistrate to detain vessel to be cleansed and disinfected.
- 113. Measures to be taken if excess number of native passengers is found on board.
- 114. Infraction of the Act and rules to be reported.
- 115. Power to make rules regulating disembarkation and other matters.
- 116. Deputation of other officer to discharge the functions of a Magistrate under sections 107 to 114.

CHAPTER VI—A.

ASSAM LABOUR BOARD.

- 116A. Constitution of Assam Board.
- 116B. Salary of Chairman.
- 116C. Appointment and functions of Supervisors.
- 116D. Endorsements of Local Agents' licenses.
- 116E. Cess.
- 116F. Rules.

CHAPTER VII.

PROVISIONS AS TO THE LABOUR-DISTRICTS.

Annual Rate payable by Employers.

- 117. Annual rate payable by employer.

Local Labour-contracts.

- 118. Labour-contracts executed in labour-districts between employer and native direct.
- 119. Verification and cancellation of such contracts.
- 120. Power of Inspector or Magistrate to require labourer who has executed such contract to appear before him.
- 121. Labour-contracts executed within labour-district before Inspector or Magistrate.

Employers' Returns and Magistrates' Inspections.

- 122. Registers to be kept and returns made by employers.
- 123. Power for Inspector, etc., to inspect lands and houses and to make requisitions and inquiries.

Section

- 208 Other person enticing away, harbouring or employing labourer under labour contract
- 209 Failure to forward contract under section 118 or to cause labourer to appear under section 120
- 210 Employer or other person neglecting to send labourer before Magistrate as provided by section 146
- 211 Employer refusing to endorse labour contract, etc.
- 212 Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term
- 213 Abetment
- 214 Place of trial for offences

CHAPTER X.

MISCELLANEOUS

- 215 Recovery of sums due under Act
- 216 Wages due under labour-contract a charge upon estate
- 217 Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it
- 218 Application of proceeds of fines, fees and rates
- 219 Duty of Assistant Inspector
- 220 Powers of officers under this Act to be exercisable from time to time.
- 221 Power to exempt labour-district from Act.
- 222 Notifications not to affect prior acts, etc.
- 223 Repeal

THE FIRST SCHEDULE.—FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED

SECTION.

- 160. Repatriation of labourers wrongfully recruited.
- 161. Repatriation of persons not under labour-contract wrongfully recruited.
- 162. Arrangements may be made for escorting persons ordered to be repatriated.

CHAPTER VIII.

RULES.

- 163. General power for the Local Government to make rules.

CHAPTER IX.

PENALTIES AND PROCEDURE.

- 164. Recruitment, etc., in contravention of Act or notification.
- 165. Wilful misdescription by recruiter.
- 166. Recruiter removing, etc., unregistered person.
- 167. Recruiter not supplying proper food, etc.
- 168. Labourer refusing to execute contract at depôt.
- 169. Labourer refusing to execute contract with garden-sardar.
- 170. Garden-sardar failing to report himself, etc.
- 171. Garden-sardar, etc., abandoning labourers, etc.
- 172. Garden-sardar making over labourers to contractors, etc.
- 173. Garden-sardar failing to comply with instructions endorsed on way-bill.
- 174. Unlawful engagement of emigrants by garden-sardar.
- 175. Local agent or selecting agent working with contractor.
- 176. Master receiving native passengers on board in contravention of Act.
- 177. Fraudulent alteration of vessel after grant of license.
- 178. Master not complying with section 102.
- 179. Master not complying with order under section 104.
- 180. Master permitting labourer to leave vessel contrary to section 106.
- 181. Master wilfully omitting to stop vessel at certain places.
- 182. Person disobeying Magistrate's order as to communication between vessel and land.
- 183. Master or medical officer disobeying or neglecting to enforce rules.
- 184. Labourer deserting, etc., after registration.
- 185. Employer refusing or omitting to keep registers, etc.
- 186. Employer or other person obstructing inspection under section 123.
- 187. Employer or other persons compelling labourer to perform labour for which he is unfit.
- 188. Persons buying labourer's rations.
- 189. Employer omitting to provide house accommodation, etc.
- 190. Employer neglecting to provide hospital accommodation.
- 191. Employer causing labourer to reside on estate declared unfit for residence.
- 192. Unlawful absence from work.
- 193. Labourer absent without cause.
- 194. Statement of deserters.
- 195. Deserter may be apprehended without warrant.
- 196. Procedure at police-station.
- 197. Procedure on complaint of desertion.
- 198. Punishment for desertion.
- 199. Compensation for wrongful arrest.
- 200. Cancellation of contract by desertion.
- 201. Penalty for drunkenness or neglect of sanitary regulations.
- 202. Portion of sentence may be cancelled on application of employer.
- 203. Expense of forwarding labourer to be paid by employer.
- 204. Conviction not to operate as a release.
- 205. Endorsement on contract of imprisonment for offence against Act.
- 206. Endorsement on contract of period of any other imprisonment.
- 207. Periods endorsed to be added to term of contract.

ACT 6 OF 1901.

(THE ASSAM LABOUR AND EMIGRATION ACT, 1901.)^[1]

(9th March, 1901.)

**An Act to consolidate and amend the law relating to
Emigration to the Labour-districts of Assam.**

Whereas it is expedient to consolidate and amend the law relating to emigration to the labour-districts of Assam; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Assam Labour and Emigration Act, 1901. Short title,
extent and
commence-
ment.

(2) It extends—

- (a) to the Provinces of Bengal (including the Sonthal Pargannas), the North-Western Provinces, Oudh^[2] and Assam, the Central Provinces and the District of Ganjam in the Province of Madras, and

[1] LEGISLATIVE PAPERS—This Act is an amalgamation of the provisions of two Bills separately introduced in Council—see Report of the Select Committee referred to below. Those Bills were the "Assam Labour and Emigration Bill" and the "Assam Emigrants Health Bill."

For Statements of Objects and Reasons, see Gazette of India, 1899, Part V, pp 165 and 175, respectively, for Report of the Select Committee on both Bills, which led to their amalgamation, see Gazette of India, 1901, Part V, p 27; for Proceedings in Council, see *ibid*, 1899, Part VI, pp 225 and 234, relating to both Bills, and for Proceedings in Council after their amalgamation, see *ibid*, 1901, Part VI, pp 15 and 32.

LOCAL EXTENT—This Act extends *proprio vigore* to Bengal and certain other Provinces and the district of Ganjam, and may be extended by notification to other parts of British India—see s 1.

The Act is in force in the Sonthal Pargannas; and also in the district of Simbalpur, in the division of Orissa—see s 1 (2) (a).
District by the Angul District Regulation,

print of this Act, with rules and orders issued thereunder, see the Bengal Inland Emigration Manual, 1912.

OTHER ENACTMENTS—As to the emigration of Natives of India and their departure by sea out of India, see the Indian Emigration Act, 1903 (17 of 1903), printed in the General Acts, 1904 CG, Ed 1909, p 593, and the Indian Emigration (Amendment) Act, 1910 (14 of 1910).

[2] These territories are now called "the United Provinces of Agra and Oudh"—see the United Provinces (Designation) Act, 1902 (7 of 1902), in General Acts, 1893-1903, Ed 1903, p 566, and the United Provinces General Clauses Act 1904 (U P Act 1 of 1904), s 22, in the United Provinces Code, 1906, Vol II, p 925.

(Sec. 2.)

(b) to such other parts of British India as the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct.

(3) It shall come into force—

(i) in the territories mentioned in clause (a) of sub-section (2), at once; and

(ii) in any territories to which it may be extended by a notification under clause (b) of the said sub-section, on such day as may be specified in that behalf in the notification.

Definitions.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) “agent” means garden-sardar or other person engaging or assisting any native of India to emigrate under Chapter V:

(b) “Assistant Inspector” means an Assistant Inspector of Labourers appointed under this Act:

(c)[¹] * * * *

[²](cc) “Board” means the Assam Labour Board constituted under Chapter VII-A.

(d) “dependant” includes any woman (not being a labourer), any child and any aged or incapacitated relative or friend accompanying any labourer with the consent of a * * * * [¹] local agent or garden-sardar, or accompanying any emigrant with the consent of an agent:

(e) “emigrate” denotes the departure of any native of India (not being a native of a labour-district) of the age of sixteen years or upwards from any part of the territories in which this Act may for the time being be in force, for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant:

[²] *Explanation*.—If any such Native of India, having proceeded from a Native State into such territories, departs therefrom for the purpose aforesaid, he shall be deemed to emigrate within the meaning of this definition.

(f) “employer” means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed:

[¹] Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (f), and Sch., *post*, p. 773, and hence omitted.

[²] The clause (cc) and *Explanation* were added by the Assam Labour and Emigration Amendment Act, 1915 (8 of 1915), s. 2, clauses (a) and (b) respectively, *post*, p. 767.

{Sec. 2.}

- (g) "estate" means the land upon which any labourers or more than fifty other persons have been engaged to labour:
- (h) "garden-sardar" means a person employed on an estate and deputed by his employer to engage labourers:
- (i) "Inspector" means an Inspector of Labourers appointed under this Act:
- (j) "labour-contract" means a contract, penally enforceable under this Act, to labour for hire in a labour-district otherwise than as a domestic servant:
- (k) "labour-district" means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet in the Province of Assam:
- (l) "labourer" means any person bound by a labour-contract, and includes any person registered as such under * * * [1] section 69:
- (m) "local agent" means a local agent licensed under this Act:
- (n) "Magistrate" means a District Magistrate, Sub-divisional Magistrate or other person appointed[2] by the Local Government to perform the functions of a Magistrate under this Act:
- [3](nn) "native district" in the case of a person who, having proceeded from a Native State into territories in which this Act is in force, emigrates therefrom, includes such Native State.
- (o) * * * * * [4]
- (p) "recruiting district" means a district in which this Act is for the time being in force, other than a labour-district:
- (q) "Registering officer" means a Registering-officer appointed under this Act:
- (r) "sign" and "signature" include, in the case of persons unable to write, finger impressions:
- (s) * * * * * [5]

[1] Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (f), and Sch., post, p. 771, and hence omitted.

[2] For an order made under s. 2 (n), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[3] The clauses (nn) and (o) were added by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 2, clauses (c) and (d) respectively, post, p. 50, and the word "and" at the end of clause (s) were repealed and added at the end of clause (t) by the same Act.

[4] Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (f) and Sch., post, p. 771.

(Secs. 3-4.)

(t) "Superintendent" means a Superintendent of Emigration appointed under this Act, and

[¹](u) "Superior" means a superior appointed under this Act.

(2) All words defined in the Indian Contract Act, 1872, [²] and used in this Act shall be deemed to have the meanings respectively assigned to them by that Act.

Local Government may prohibit recruitment, etc., for emigration to any labour district or part thereof either absolutely or otherwise than under certain provisions of Act.

3. The Local Government may, with the previous sanction of the Governor-General in Council, by notification [³] in the local official Gazette, prohibit all persons from recruiting, engaging, inducing or assisting any native of India, or any specified class of natives of India, to emigrate from the whole or any specified part of the Province to any labour-district or any specified portion of any labour-district, either absolutely or otherwise than in accordance with such of the provisions of this Act as may be specified in the notification:

Provided that a notification under this section shall not take effect until the expiry of six months from the date of its publication in the Gazette unless for any special reason the Local Government thinks it necessary to direct that the notification is to take effect at an earlier date.

Appointment of officers.

4. (1) The Local Government may appoint [⁴] so many persons as it thinks necessary to be Superintendents of Emigration, Registering-officers, Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers and Medical Inspectors, under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor General in Council, declare the local area situate in the Province within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule thereunder.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.^[5]

[¹] The clauses (nn) and (u) were added by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 2, clauses (c) and (d) respectively, *post*, p. 763; and the word "and" at the end of clause (s) were repealed and added at the end of clause (t) by the same section.

[²] Printed in General Acts, 1868-78, Ed. 1909, p. 273.

[³] For a list of notifications issued under s. 3, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[⁴] For orders made under s. 4 (1), see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

[⁵] Printed in General Acts, 1834-67, Ed. 1909, p. 248.

(Sec. 5.)

CHAPTER II.

LABOUR-CONTRACTS GENERALLY.

5. (1) Every labour-contract shall be in writing in the form set forth in the first schedule, and shall be executed as hereinafter provided in duplicate on substantial paper. Essentials of labour-contracts.

(2) Every labour-contract shall specify—

- (a) the names of the labourer and his employer;
- (b) the term for which the labourer is to labour;
- (c) the monthly wages in money of the labourer and the price at which rice is to be supplied to him;
- (d) the labour-district in which, and, if the labourer so requests, the estate on which, the labourer is to labour.

(3) No labour-contract shall be made for a term exceeding four years or if the contract is entered into under the provisions of section 118, for a term exceeding one year, commencing from the date of its execution.

(4) No labour-contract shall stipulate for a less rate of monthly wages than—

for the first year, five rupees in the case of a man and four rupees in the case of a woman ;

for the second and third years, five rupees eight annas in the case of a man and four rupees eight annas in the case of a woman ; and

for the fourth year, six rupees in the case of a man and five rupees in the case of a woman ;

Provided that the payment of wages under a labour-contract at the stipulated rate shall during the first six months after the arrival of the labourer in the labour-district where he is first employed be contingent on the completion of half the daily task regulated in accordance with the provisions of this Act, unless an Inspector has certified that the labourer is physically fit to perform the whole of such task :

Provided also that in all other cases the payment of wages at the stipulated rate shall be contingent on the completion of such daily task ;

Provided further that any labour-contract made before the first day of April, 1903, may stipulate for a rate of monthly wages of not less

(Secs. 6-10.)

than five rupees in the case of a man and four rupees in the case of a woman for the second and third years of the term of such contract.

Contracts not enforceable as labour-contracts unless made in accordance with section 5.

In absence of specific obligation, underground labour not obligatory.

Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour-district.

Persons who may enter into labour-contracts.

6. No contract made otherwise than in accordance with the provisions of section 5 shall be enforceable under this Act as a labour-contract against the labourer entering into it.

7. Unless his labour-contract contains a specific obligation to that effect, no labourer shall be bound by it to undertake any work involving underground labour in mines.

8. Unless his labour-contract specifies the particular estate on which he is to labour, a labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situate in the labour-district specified in the contract:

Provided that no labourer shall, without his consent, be separated from his dependants (if any) or from any other labourer, being his or her wife, husband, son or daughter.

9. Notwithstanding anything to the contrary in the Indian Contract Act, 1872,^[1] any person of the age of sixteen years or upwards may enter into a labour contract:

Provided that no woman shall be capable of binding herself by a labour-contract if her husband or lawful guardian (if any) objects.

Power of Local Government to cancel contract in case of wrongful recruitment.

10. (1) Where the Local Government, after such inquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour-district or compelled or induced to enter into a labour-contract, by any coercion, undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Government may, by order in writing, direct the labour-contract of the labourer to be cancelled.

(2) On receipt of an order made under sub-section (1), the Superintendent, Inspector or Magistrate shall cancel the labour-contract referred to in the order, and shall thereupon make endorsement that it has been so cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

(Secs. 11-13.)

11. Where the labour-contract of a labourer is or has been cancelled under section 10, the Local Government may, in its discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer, being the wife, husband, father, mother, son or daughter of the labourer, whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer or, in the case of a labour-contract cancelled in the labour-districts, may be employed on any estate belonging to the same owner or under charge of the same employer.

Power to cancel contract of labourer related to labourer whose contract is cancelled.

12. (1) Subject to any orders which the Local Government may make in this behalf, the Superintendent, Inspector or Magistrate may detain and send back to his native district any labourer, together with his dependants (if any), whose labour-contract has been cancelled under section 10 or section 11, and may recover the whole or any part of the expenses incurred during such detention or in so sending him back as follows, namely:—

Repatriation of labourers whose contracts are cancelled.

(a) * * * * *

(b) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter IV, from the employer by whom the certificate of the garden-sardar concerned was granted or from the local agent of the employer; and,

(c) in the case of a labourer in a labour-district, from the employer on whose estate the labourer is under contract to labour,

* * * * *

(2 and 3) * * * * *

13. (1) Where a labourer is sent back to his native district under section 12, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer is actually conveyed to his native district.

Escort for repatriated labourer.

(2) Any expenditure incurred in providing such escort or making such arrangements as aforesaid may be recovered as part of the amount expended in sending the labourer back to his native district.

CHAPTER III.[*]

* * * * *

[*] Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and the Sch., part p. 771, and hence omitted.

[*] The whole of Chapter III has been repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and the Sch., part p. 771.

(Secs. 68-70.)

(2) A local agent may, within three months next after the date of any order of a District Magistrate cancelling his license under sub-section (1), appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final.

Procedure to be followed by Garden-sardars.

68. Every garden-sardar who desires to engage any person as a Garden-labourer shall appear with the person, together with any others about to proceed to a labour-district as his dependants, before the Registering-officer having jurisdiction within the local area specified in the certificate of the garden-sardar or before such other Registering-officer as the Local Government may appoint^[1] for that local area.

69. (1) The Registering-officer shall thereupon inspect the certificate of the garden-sardar, and if he finds that the certificate is in force, shall examine, with reference to the intended labour-contract, the person brought before him under section 68 whom it is desired to engage as a labourer, and explain the intended labour-contract to him.

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract and understands the nature of the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter therein by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and his dependants (if any) as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

70. (1) Where it appears to the Registering-officer that any person brought before him under section 68 is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, the Registering-officer may, before registering him under section 69, sub-section (2), if himself a medical man, medically examine him, or, if not himself a medical man, send him to a medical man for medical examination.

[1] For an order made under s. 63, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part IV.

(Secs. 71-73.)

(2) If upon medical examination any person so brought before a Registering-officer is declared unfit to undertake the journey to the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour-districts, the Registering-officer may refuse to register him.

71. For every person brought before a Registering-officer under section 68 for the purpose of being registered as a labourer, the garden-sardar who appears with him shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may direct.

72. (1) Where a person has been registered under section 69, sub-section (2), he shall, within fifteen days after the date on which he was so registered, execute a labour-contract with the employer with whom he intends to contract.

(2) The labour-contract shall be signed in the presence of the Registering-officer by the person so registered and, on behalf of the employer, by the garden-sardar who appears with him before the Registering-officer. The Registering-officer shall satisfy himself that the labour-contract is in accordance with any instructions specified in the certificate of the garden-sardar; and, if he is so satisfied, shall, before the labourer signs the labour-contract, personally explain it to him and, after it has been executed as aforesaid, attest it, and certify at the foot thereof that he has personally explained it to the labourer.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept for the purpose by the Registering-officer, and a copy thereof shall then be given to the labourer and a copy to the garden-sardar or local agent.

(4) Where any garden-sardar, without reasonable cause, refuses or neglects to execute a labour-contract with a labourer as required by sub-section (2) within fifteen days after the date on which the labourer was registered under section 69, sub-section (2), the Registering-officer may order the garden-sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the Registering-officer may think fit.

73. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that every labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, and physically and constitutionally fit for labour in the labour-districts, no Registering-officer shall register as a labourer any person

Fee to be paid for every labourer produced for registration. Labour-contract to be executed.

Procedure when employer requires medical examination previous to registration.

(Secs. 74-79.)

appearing before him with the garden-sardar until such medical certificate as aforesaid has been produced and shown to him.

74. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that the examination referred to in section 73 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the local agent or garden-sardar such fee, for each labourer so examined, as may be agreed upon, and, if no agreement has been entered into, such fee as the Local Government, by general or special order, may direct.

Fee of medical officer when in Government service for examination under section 73.

75. Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour-contract under section 72 no garden-sardar shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area or aid or attempt to aid him in proceeding to a labour-district.

Garden-sardar when to remove labourer to labour-district.

76. (1) A garden-sardar shall either himself accompany labourers engaged by him throughout the journey from the place in which the labour-contract was entered into, to the labour-district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom the labourers were registered.

Garden-sardar to accompany labourers or send competent person with them.

(2) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardar or person so appointed by him shall accompany the labourers so proceeding.

77. A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 76, any number of labourers may be despatched at the same time to the labour-districts.

No restriction on number of persons engaged by garden-sardar.

78. A garden-sardar may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if the employer has no local agent, with the previous consent in writing of the employer, be appointed under section 76 as a competent person to accompany labourers other than those engaged by him.

Appointment in certain cases of garden-sardar to accompany labourers not engaged by him.

79. (1) Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall present to the

Provision to way of

(Secs. 71-73.)

(2) If upon medical examination any person so brought before a Registering-officer is declared unfit to undertake the journey to the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour-districts, the Registering-officer may refuse to register him.

Fee to be paid for every labourer produced for registration. Labour-contract to be executed.

71. For every person brought before a Registering-officer under section 68 for the purpose of being registered as a labourer, the *garden-sardar* who appears with him shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may direct.

72. (1) Where a person has been registered under section 69, sub-section (2), he shall, within fifteen days after the date on which he was so registered, execute a labour-contract with the employer with whom he intends to contract.

(2) The labour-contract shall be signed in the presence of the Registering-officer by the person so registered and, on behalf of the employer, by the *garden-sardar* who appears with him before the Registering-officer. The Registering-officer shall satisfy himself that the labour-contract is in accordance with any instructions specified in the certificate of the *garden-sardar*; and, if he is so satisfied, shall, before the labourer signs the labour-contract, personally explain it to him and, after it has been executed as aforesaid, attest it, and certify at the foot thereof that he has personally explained it to the labourer.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept for the purpose by the Registering-officer, and a copy thereof shall then be given to the labourer and a copy to the *garden-sardar* or local agent.

(4) Where any *garden-sardar*, without reasonable cause, refuses or neglects to execute a labour-contract with a labourer as required by sub-section (2) within fifteen days after the date on which the labourer was registered under section 69, sub-section (2), the Registering-officer may order the *garden-sardar* to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the Registering-officer may think fit.

Procedure when employer requires medical examination previous to registration.

73. Where the employer of a *garden-sardar* has, in the instructions specified in the certificate of the *garden-sardar*, directed that every labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, and physically and constitutionally fit for labour in the labour-districts, no Registering-officer shall register as a labourer any person

(Secs. 74-79.)

appearing before him with the garden-sardar until such medical certificate as aforesaid has been produced and shown to him.

74. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that the examination referred to in section 73 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the local agent or garden-sardar such fee, for each labourer so examined, as may be agreed upon, and, if no agreement has been entered into, such fee as the Local Government, by general or special order, may direct.

Fee of medical officer when in Government service for examination under section 73.

75. Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour-contract under section 72 no garden-sardar shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area or aid or attempt to aid him in proceeding to a labour-district.

Garden-sardar when to remove labourer to labour-district.

76. (1) A garden-sardar shall either himself accompany labourers engaged by him throughout the journey from the place in which the labour-contract was entered into, to the labour-district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom the labourers were registered.

Garden-sardar to accompany labourers or send competent person with them.

(2) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardar or person so appointed by him shall accompany the labourers so proceeding.

77. A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 76, any number of labourers may be despatched at the same time to the labour-districts.

No restriction on number of persons engaged by garden-sardar.

78. A garden-sardar may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if the employer has no local agent, with the previous consent in writing of the employer, be appointed under section 76 as a competent person to accompany labourers other than those engaged by him.

Appointment in certain cases of garden-sardar to accompany labourers not engaged by him.

79. (1) Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall present to the

Provision for way-bill.

(Secs. 80-83.)

officer before whom the labourers have executed a contract under section 72 a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe.

(2) Every such garden-sardar or other person as aforesaid shall also present the way-bill at all such places and to all such officers as may be thereupon indicated, and shall carry out all instructions therein contained for his guidance.

Garden-sardar to provide food and lodging for labourers and dependants on journey.

80. Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall provide the labourers and their dependants (if any) with proper and sufficient food and lodging throughout the journey.

Power for Magistrate in certain cases to award compensation or cancel contract.

81. Where it appears to any Magistrate, on the complaint of a labourer at any place on the journey, that the labourer or any person registered as his dependant has suffered ill-treatment during the journey at the hands of the garden-sardar or person appointed by the garden-sardar accompanying the labourer or that the garden-sardar or person so appointed has failed to provide the labourer or any of his dependants with proper and sufficient food and lodging, or has wilfully abandoned the labourer or any of his dependants, the Magistrate may either order the garden-sardar or person so appointed to pay to the labourer a reasonable sum by way of compensation, or may cancel the labour-contract entered into by the labourer and order the garden-sardar or person so appointed to pay to the labourer such reasonable sum as the Magistrate may think necessary to enable him with his dependants (if any) to return to the place at which he was registered, or to his native district, as to the Magistrate may seem fit.

Procedure on failure of garden-sardar to comply with order.

82. On the failure for the space of twenty-four hours of any garden-sardar or person appointed by him as aforesaid to comply with an order made under section 81 to pay any sum, the Magistrate may pay the same to or on behalf of the labourer concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Medical inspection of labourers en route.

83. Any Magistrate or Embarkation Agent may, if himself a medical man, medically examine, and, if not himself a medical man, send for medical examination by a medical man, any labourer or dependant who, while on the journey to the district to which he intends to proceed, appears to the Magistrate or Embarkation Agent, as the case may be, not to be in a fit state of health to proceed thereto.

(Secs 84 85)

84 (1) Where any labourer or dependant is, on examination under section 83, declared not to be in a fit state of health to undertake the journey to the labour district to which he intends to proceed, the Magistrate or Embarkation Agent may order the labourer or dependant to be detained at such place as he may think proper until in a fit state of health to undertake the journey

Detention and return of labourer declared when en route to be unfit to travel.

(2) In any such case as is provided for by sub section (1), the labourer or dependant, when in a fit state of health to undertake the journey, shall, if the garden sardar or person appointed by the garden-sardar accompanying him, or the employer by whom the certificate of the garden sardar was granted, or his local agent, so wishes, be forwarded to the labour district, or, if otherwise, to his native district or the place where he was registered as to the Magistrate or Embarkation Agent may seem fit

(3) While any labourer or dependant is detained under sub section (1), he shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the expense of the employer with whom the labourer, or the labourer to whom the dependant is attached, has contracted to labour.

85. (1) Where an order under section 84 has been made with reference to any labourer, any person registered as his dependant, and any other labourer being his or her wife or husband, shall be entitled,—

Dependant's of labourer when to be fed, etc

(a) until the labourer is in a fit state of health to undertake the journey to be fed, lodged, clothed, and (if necessary) medically treated at the place where the labourer is detained, and at the cost of the employer with whom the labourer has contracted to labour, and

(b) to be sent back to the same place (if any) as the labourer

(2) Where an order has been made under sub section (1) with reference to any dependant, the labourer to whom the dependant is attached shall thereupon, until the dependant is in a fit state of health to undertake the journey to the labour district, be entitled, if the labourer so wishes, and if he or she is the husband, wife, son or daughter of the dependant, to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained and at the cost of the employer with whom the labourer has contracted to labour, and the labourer shall, if he or she so wishes and if he or she is the husband, wife, son or daughter of the dependant, be sent back to the same place (if any) as the dependant

(3) Where a labourer is entitled and claims to be so fed, lodged, clothed and (if necessary) medically treated or to be so sent back, any

(Secs. 86-88.)

person registered as his or her dependant, and any other labourer, being the wife or husband of the labourer, shall be entitled, as the case may be,—

(a) to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained and, at the cost of the employer, until the dependant is in a fit state of health to undertake the journey to the labour-district, or

(b) to be sent back to the same place as the labourer.

Payment of expenses of detention and return-journey of labourer.

86. Where a garden-sardar or person appointed by a garden-sardar accompanying any labourer or dependant fails to provide the labourer or dependant with food, lodging, clothing and medical treatment, or to send him back as required by section 84 or section 85, the Magistrate or Embarkation Agent may order the garden-sardar or person so appointed to pay such sum as the Magistrate or Embarkation Agent, as the case may be, may think necessary to provide food, lodging, clothing and medical treatment, or to defray the cost of the return-journey of the labourer or dependant; and, on failure for the space of twenty-four hours of the garden-sardar or person so appointed to comply with the order, the Magistrate or Embarkation Agent, as the case may be, may pay the sum specified in the order to or on behalf of the labourer or dependant concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Representative of employer may procure order from Superintendent cancelling the labour-contract on behalf of

87. (1) Where a labour-contract has been executed by a garden-sardar on behalf of his employer, any local agent or other representative of the employer may require the labourer to appear before the Superintendent for the cancellation of his labour-contract.

(2) If, when the labourer appears under sub-section (1), such reasonable sum as the Superintendent may think necessary to enable the labourer and his dependants (if any) to return to the native district of the labourer or to the place at which he was registered, as to the Superintendent may seem fit, and such further sum (if any) by way of compensation as the Superintendent may think reasonable, are paid to the labourer in his presence, the Superintendent may declare the labour-contract cancelled, and, in that event, shall make an endorsement to the like effect on the labourer's copy of the labour-contract, and attest the endorsement with his signature.

Cancellation of contracts of relatives.

88. (1) Where the Superintendent declares the labour-contract of any labourer to be cancelled, any other labourer who is the wife, husband, father, mother, son or daughter of the labourer and has entered into a

(Secs. 80-91.)

labour-contract at the same place with the same employer, may claim to have her or his labour-contract cancelled at the same time.

(2) Where a claim is made under sub-section (1), the Superintendent shall declare the labour-contract of the claimant to be cancelled, and shall order the local agent or representative of the claimant's employer to pay to the claimant such reasonable sum as the Superintendent may think necessary to enable him and his dependants (if any) to return to the same place as the labourer.

(3) On the failure for the space of twenty-four hours of the local agent or representative to comply with an order made under sub-section (2), the Superintendent may pay the sum specified in the order to or on behalf of the claimant concerned and may recover the same from the employer by whom the certificate of the garden-sardar was granted, or from the local agent or representative who appears on behalf of the employer.

89. When an order is made under sections 81, 86 or 88 for payment of the costs of the return-journey of any labourer or other person, the Magistrate may order the garden-sardar or other person liable in respect of such costs to pay also the cost of providing such escort to accompany the labourer or other person during his return journey as the Magistrate may think necessary.

Cost of escort for repatriated labourer.

CHAPTER V.

ENGAGEMENT OF EMIGRANTS OTHERWISE THAN UNDER

CHAPTER * * * [1] IV.

90. (Special provisions as to engagement of emigrants through garden-sardars.) Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), section 6.

[2] 91. * * * * *

the Local Government may, by notification [4] in the local official Gazette, declare that—

(a) * * * * *

Power to Local Government to relax certain provisions of Act.

[1] "Chapter IV" was substituted for the original words and figures, "Chapters III and IV" by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (2) (b), *post*, p. 772.

[2] The section was substituted for the original s. 91 by the Assam Labour and Emigration (Amendment) Act, 1908 (11 of 1908), s. 2, *post*, p. 717.

[3] Words and figures repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 6, *post*, p. 771, are omitted.

[4] For a list of notifications issued under s. 91, see the Bihar and Orissa Local Government Rules and Orders, Vol. I, Part IV.

[5] The original was repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (2), and the Sch., *post*, p. 771.

(Secs. 92-93.)

(b) in the case of garden-sardars holding certificates granted under Chapter IV * * * *^[1] any of the requirements of that Chapter * * * *^[1], as the case may be,

may be dispensed with or relaxed on such conditions as may be prescribed in the notification.

92. Subject to the provisions of section 3 and of any notification issued thereunder, nothing in this Act shall be deemed to prohibit any person from engaging or assisting natives of India to emigrate to a labour-district otherwise than in accordance with the provisions of Chapter IV, ^[2] and of section * * *^[3] 91.

93. (1) The following provisions of this Act shall apply to the transport and employment of persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts, namely:—

(a) in CHAPTER VI (TRANSPORT):—

- (i) sections 94 and 95 (routes and transport by sea);
- (ii) sections 96 to 99 (passenger licenses);
- (iii) sections 100 and 101 (Embarkation Agent's powers and returns by master);
- (iv) section 103 (medical officer);
- (v) section 104 (delay in departure);
- (vi) sections 107 to 110 (Magistrates' powers);
- (vii) section 112 (disinfection);
- (viii) section 113 (excess passengers);
- (ix) section 114 (breaches of Act and rules); and
- (x) section 116 (delegation of magisterial powers);

(b) in CHAPTER VII (LABOUR-DISTRICTS):—

- (i) section 122 (registers and returns);
- (ii) section 123 (inspection); and
- (iii) sections 159, 161 and 162 (repatriation);

^[1] Words and figures repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 6, *post*, p. 771, are omitted.

^[2] "Chapter IV" was substituted for the original words and figures, "Chapters III and IV" by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7.

^[3] "Section 91" was substituted for the original words and figures, "sections 90 and 91" by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 6 (2), *post*, p. 771.

Saving of engagement of emigrants otherwise than under foregoing provisions of Act.
Application of Act to persons engaged under this Chapter.

(Secs. 94-95.)

(c) in CHAPTER VIII (RULES):—

all powers conferred by section 163, except in so far as the same relate exclusively to labourers and their dependants;

(d) in CHAPTER IX (PENALTIES AND PROCEDURE):—

(i) sections 170, 177, 181, 182 and 183 (offences connected with transport by river); and

(ii) sections 185 and 186 (offences by employers); and

(e) in CHAPTER X (MISCELLANEOUS):—

(i) section 215 (recovery of sums due); and

(ii) sections 218 to 223 (fines, etc., Assistant Inspector, officers' powers, exemption, prior notifications and repeal).

(2) Except as indicated in sub-section (1), nothing in Chapter II or IV^[1] inclusive or in Chapter VI (except Chapter VI-A) to X^[2] inclusive shall apply to persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts.

CHAPTER VI.

TRANSPORT.

Routes, etc.

94. Every person who forwards or accompanies labourers or emigrants under Chapter V or their dependants to a labour-district shall forward or take them by the prescribed route, or one of the prescribed routes, and shall conform to the rules made under this Act, in so far as the said rules apply to himself and to the persons emigrating under his charge.

Transport by River.

95. Nothing in this Chapter shall apply to the transport by sea of natives of India to the labour-districts.

[1] The words and figures "Chapter II or IV" were substituted for the original words, "Chapters II to IV inclusive," by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (2) (a), *post*, p. 772.

[2] The words and figures "Chapters VI (except Chapter VI-A) to X" were substituted for the original words and figures, "Chapters VI to X" by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (2) (a), *post*, p. 772.

(Secs. 96-100.)

Vessels to carry more than twenty passengers to be ordinarily licensed.

96. (1) No master shall receive more than twenty passengers, being natives of India, on board his vessel for the purpose of transporting them to a labour-district, unless a license to carry passengers in his vessel has been granted to him under this Chapter by an Embarkation Agent duly empowered in that behalf by the Local Government.

(2) The Local Government may, by notification in the local official Gazette, exempt from the provisions of this section any vessel or class of vessels.

Application for license.

97. (1) The master or owner of any vessel who desires to obtain a license under this Chapter to carry passengers in his vessel shall make a written application for a license to an Embarkation Agent empowered as aforesaid.

(2) Every application made under sub-section (1) shall state such particulars respecting the vessel as the Local Government may, by rule, prescribe.

Grant of license.

98. Where the Embarkation Agent to whom an application is made under section 97, sub-section (1), is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, who may be received on board.

Fee for license.

99. Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of the vessel, by rule, direct, shall be paid for every license granted under section 98, and no license so granted shall be in force for more than one voyage:

Provided that a license may, with the previous sanction of the Local Government, be granted under the said section to the master of any vessel for any term not exceeding one year, on payment of such fee, not exceeding one hundred rupees, and on such conditions, as the Local Government may, by rule, prescribe.

Embarkation Agent may limit number to be received on board on any particular voyage.

100. (1) Any Embarkation Agent may, in accordance with such rules as the Local Government may make in this behalf, direct, by order in writing, that on any particular voyage or part of a voyage, any master licensed under this Chapter shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to the master.

(2) In computing the number of persons on board a vessel, two children under the age of ten years shall, for the purposes of this Chapter, be reckoned as one person only.

(Secs 101-106)

101. Every master licensed under this Chapter shall keep such lists, Master to submit such returns, and make such reports in regard to the passengers make returns, carried in his vessel, as the Local Government may, by rule, prescribe

102. Every master licensed under this Chapter shall have on board his vessel carrying labourers and their dependants such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may, by rule, prescribe Provisions, clothing, medical and other officers, cooks, etc

103. No medical officer shall be appointed to any vessel in respect of which a license is granted under this Chapter, unless he holds a license granted by such authority as the Local Government may appoint in that behalf, and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such a requisition Medical officer to be licensed.

Departure of Passenger vessels and procedure during voyage

104. Where it appears to an Embarkation Agent that the departure of a vessel in respect of which a license is granted under this Chapter is unduly delayed beyond the date fixed by the order of a Superintendent or of the Local Government, or notified by advertisement in the public press, for such departure, he may order the master of the vessel to proceed on his voyage at once Embarkation Agent may order departure of vessel if delay occurs.

105. (1) No master licensed under this Chapter shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way bills relating to all labourers on board in respect of whom way bills are required by this Act or by the rules made thereunder Master to receive way bills from Embarkation Agent.

(2) The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of such labourers on board corresponds with the number entered in the way bill

(3) The Embarkation Agent shall send a copy of every way bill granted under sub-section (1) to the Magistrate of the labour district to which such labourers are proceeding

106. No master licensed under this Chapter shall cause or permit any labourer entered in any such way bill finally to leave his vessel at any place other than that named in the way bill as the destination of the labourer Labourers not finally to leave vessel at any place other than that named in way bill.

Provided that nothing in this section shall be deemed to prevent the master of a vessel from permitting such labourers to disembark at any place on the voyage so long as the disembarkation is not intended, or known to be likely, to be final, nor to prevent the final disembarkation

(Secs. 107-110.)

of any such labourers or the transfer of such labourers with their dependants to another vessel in case of accident or unavoidable necessity:

Provided also that every such accident or necessity as aforesaid shall forthwith be reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the district within which the accident has occurred or the necessity has arisen.

Master to stop his vessel at certain places where there is a Magistrate.

107. (1) Every master licensed under this Chapter shall stop his vessel carrying passengers, being natives of India, at such places, being places where a Magistrate is stationed, and shall, unless the Magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct.

(2) The master shall, on arriving at such a place as aforesaid, immediately report to the Magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.

Power for Magistrates to inspect vessels.

108. (1) Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, go on board the vessel and inspect it and all persons, being natives of India, on board.

(2) The master and officers of any such vessel as aforesaid shall afford to the Magistrate every facility for inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths (if any) which have occurred on board, and any other facts affecting the health of the passengers.

Power for Magistrates to regulate communication between vessels and land.

109. Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, regulate the communication between the vessel and the land, and prohibit all persons from leaving the vessel, and all persons on land from proceeding on board.

Power for Magistrates to detain vessels for inspection and to detain sick native passengers.

110. (1) Any Magistrate may, if he has reason to believe that any passengers, being natives of India, on board a vessel within the local limits of his jurisdiction, in respect of which a license is granted under this Chapter, are, or are likely to be, affected with any dangerously infectious or contagious disease, detain the vessel and depute the civil medical officer of the district or any other qualified medical officer to inspect such passengers as aforesaid and to report on their health, stating whether any or what measures are requisite for the removal or prevention of the dangerously infectious or contagious disease.

(Secs. 111-114.)

(2) On receiving the report of the medical officer so deputed, the Magistrate may order any such passenger as aforesaid who is suffering from any dangerously infectious or contagious disease to be disembarked and detained* for medical treatment.

111. (1) Where, on receiving the report of a medical officer deputed under section 110, sub-section (1), it appears to a Magistrate that a labourer or any dependant of any such labourer, though not suffering from a dangerously infectious or contagious disease, is not in a fit state of health to proceed to the labour-district in which the labourer has contracted to labour, he may order the labourer or dependant to be detained, and shall cause all necessary arrangements to be made for his accommodation, support and medical treatment.

Detention of sick labourers by Magistrate.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer of the labourer concerned.

112. (1) Where, in the opinion of a medical officer deputed under section 110, sub-section (1), it is dangerous to the health of the general body of the passengers to allow the vessel to proceed until measures have been taken to cleanse and disinfect her, the Magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out those measures.

Power for Magistrate to detain vessel to be cleansed and disinfected.

(2) Any expenditure incurred under sub-section (1) may be recovered from the master or owner of the vessel.

113. (1) Where it appears to a Magistrate making an inspection of a vessel, in respect of which a license is granted under this Chapter, that the number of passengers on board, being natives of India, is larger than the number specified in the license or than the number specified in an order of an Embarkation Agent made under section 100, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found.

Measures to be taken if excess number of native passengers is found on board.

(2) Any expenditure incurred in maintaining passengers detained under sub-section (1) and in forwarding them to their destination may be recovered from the master or owner of the vessel.

114. Where it appears to a Magistrate making an inspection of a vessel in respect of which a license is granted under this Chapter, that any of the provisions of this Act or of any rule thereunder have not been complied with in respect of the vessel, he shall report the fact to the Embarkation Agent by whom the license was granted; and, if he considers it necessary to do so, he may detain the vessel until such provisions as aforesaid have been so complied with as to make it possible for the

Infraction of the Act and rules to be reported.

(Secs. 115-116A.)

voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

Power to make rules regulating disembarkation and other matters.

115. (1) The Local Government may make rules to regulate—

- (a) the disembarkation of labourers and their dependants, and their inspection and accommodation on arrival at their destinations;
- (b) the detention of labourers and their dependants at debarkation depôts;
- (c) the forwarding of labourers to their destinations and the closing and return of way-bills by employers.

(2) Any expenditure incurred in pursuance of any rules made under sub-section (1) may be recovered from the employers of the labourers concerned.

Deputation of other officer to discharge the functions of Magistrate under sections 107 to 114.

116. The District and Sub-divisional Magistrate may authorize any subordinate Magistrate, medical officer, or officer of police above the rank of sub-inspector, to exercise the powers and authorities conferred and to perform the duties imposed on a Magistrate under sections 107 to 114.

“ CHAPTER VI-A. [1]

ASSAM LABOUR BOARD.

116-A. (1) There shall be a Board, to be called the Assam Labour Board, for the supervision of Local Agents, and of the recruitment, engagement and emigration to labour districts of natives of India under this Act.

(2) The Assam Labour Board shall be a body corporate, and have perpetual succession and a common seal, and may by that name sue and be sued.

(3) The Assam Labour Board (hereinafter called the Board) shall consist of sixteen members, including the Chairman, who shall be an officer in the service of Government, to be appointed by the Governor General in Council by notification in the *Gazette of India*. The remaining members shall be elected by the following bodies, namely:—

- (a) eight by the Indian Tea Association, Calcutta, as representatives of that Association and of the Indian Tea Association, London;

[1] Added by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 5, *post*, p. 768.

(Secs 116-B-116C)

- (b) four by the Assam Branch, Indian Tea Association, and
- (c) three by the Surma Valley Branch, Indian Tea Association

(4) The election shall be made in such manner as may be determined by the electing bodies, subject to the approval of the Governor General in Council, and the name of every person so elected shall be published in the *Gazette of India*

(5) If within the period prescribed by rules made under this Chapter any of the aforesaid bodies fails to elect representatives or to elect the full number of representatives to which it is entitled, the Governor General in Council may nominate persons to be members of the Board as representatives of the said bodies

(6) There shall be an Executive Committee of the Board, with such powers and duties as may be conferred on it by rules made under this Chapter. It shall consist of five members, of whom one shall be the Chairman of the Board, and the remaining four shall be elected in the manner prescribed by such rules, as representatives of the following bodies, namely —

- (a) one of the Indian Tea Association, Calcutta,
- (b) one of the Indian Tea Association, London,
- (c) one of the Assam Branch, Indian Tea Association, and
- (d) one of the Surma Valley Branch, Indian Tea Association.

(7) No act done by the Board or by the Executive Committee shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Board or of the Executive Committee, as the case may be

“116-B. (1) The Governor General in Council may fix the salary of the Chairman of the Board Salary of Chairman

(2) Such salary shall be paid in such proportions by the Governor General in Council and the Board, as the Governor General in Council may from time to time determine

“116 C (1) The Board may appoint so many persons as it thinks necessary to be Supervisors, with such powers and duties in respect of the supervision of Local Agents and the other matters mentioned in section 116 A (1) as may be conferred and imposed on them by rules made under this Chapter Appoint-ment of Supervisors

(2) Subject to the control of the Governor General in Council, the Board may fix the salary to be paid to Supervisors

(Secs. 116-D-116-E.)

(3) The Local Government may, subject to the control of the Governor General in Council, declare the local area in the Province within which Supervisors shall exercise the powers and perform the duties conferred and imposed upon them by rule under this Chapter.

(4) Every Supervisor shall be deemed to be a public servant within the meaning of the Indian Penal Code.

Endorsement
of Local
Agents'
licenses.

116-D. (1) Whenever the Board has reason to believe that the conduct of a Local Agent has been such as to detract from his suitability to hold a license it may call on him to produce his license, and after hearing any cause that he may have to show to the contrary, may make such endorsement thereon as it thinks fit. A copy of every such endorsement shall be sent to the Superintendent of Emigration in the district for which the Local Agent holds a license, and a copy shall also be sent to the employer or association or firm on whose application the Local Agent's license was granted.

(2) If the Local Agent fails to produce his license when called upon under sub-section (1), he shall be punishable with fine which may extend to two hundred rupees.

Cess.

116-E. (1) Subject to the provisions of rules made under this Chapter, the Board may levy a cess on employers for the purpose of meeting expenditure incurred in carrying out its functions under this Act, and in particular for the payment of the salary of Supervisors and of such proportion of the salary of the Chairman as may be determined under section 116-B.

(2) Such cess shall be payable on every garden-sardar deputed by his employer to engage labourers and on every person recruited or engaged as a labourer or assisted to emigrate under Chapter IV or section 91:

Provided that the rates at which the cess is levied shall not exceed the following, namely:—

Five rupees a year on each garden-sardar so deputed, and

Five rupees on each person so recruited, engaged, or assisted to emigrate.

(3) On the failure of an employer for the space of one month after the receipt of a notice in such form and served in such manner as the Governor General in Council may, by rule under this Chapter, prescribe, to pay any sum due under sub-section (1), the same shall be recoverable from him.

(Secs. 116-F-117.)

"116-F. (1) The Governor General in Council shall, after previous Rules publication, make rules to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may, subject to the provisions of this Act, provide—

- (a) for the powers to be exercised and the duties to be performed by the Board in carrying out the purposes for which it is constituted, and for the powers and duties of the Executive Committee and of the Chairman;
- (b) for the period within which elections to the Board must be made; for the election of members of the Executive Committee; and for the appointment of temporary or acting members of the Board and of the Executive Committee during the absence of any member;
- (c) for the times and places of meetings and procedure of the Board and of the Executive Committee;
- (d) for regulating the rate of the cess, the method of levying and collecting the cess, the purposes to which the cess may be applied, and the accounts to be kept and the audit thereof; and
- (e) for the powers and duties of Supervisors appointed under section 116-C."

CHAPTER VII.

PROVISIONS AS TO THE LABOUR-DISTRICTS.

Annual Rate payable by Employers.

117. (1) Every employer shall, on the first day of January and the first day of July in each year, pay in respect of each labourer then in his employ such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the local official Gazette, direct. Annual rate payable by employer.

(2) On the failure of an employer, for the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due under subsection (1), the same may be recovered from him.

(Secs. 118-121.)

Local Labour contracts.

Labour con-
tracts exe-
cuted in
labour-
districts
between
employer
and native
direct.

118. (1) Any employer may enter into a labour-contract for a term, not exceeding one year commencing from the date of execution of the labour-contract, with any native of India within the labour-district in which the estate to which the labour-contract refers is situate.

(2) Where an employer has under sub-section (1) executed a labour-contract within a labour-district, he shall, within one month from the date of the execution of the labour-contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction the estate is situate. On receipt of the labour-contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the labour-contract to the labourer and the other to his employer.

Verification
and
cancellation
of such
contracts.

119. When, for the first time after the registration, under section 118, sub-section (2), of a labour-contract with a labourer, the Inspector visits the estate on which the labourer is employed, the employer shall cause the labourer to appear before the Inspector for the purpose of having his contract verified, and the labourer may thereupon apply to the Inspector to cancel his labour-contract; and, if the labourer shows cause sufficient, in the opinion of the Inspector, to justify the cancellation of his labour-contract, the Inspector shall cancel the same and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

Power of
Inspector or
Magistrate
to require
labourer who
has executed
such contract
to appear
before him.

120. The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a labour-contract under section 118 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his labour-contract verified; and, if the labourer applies to the Inspector or Magistrate to cancel his labour-contract and shows cause which the Inspector or Magistrate, after considering any cause which may be shown by the employer, to the contrary, considers sufficient to justify its cancellation, the Inspector or Magistrate shall cancel the same as provided by section 119.

Labour-
contracts
executed
within
labour-
district
before.

121. (1) Notwithstanding the provisions of section 118, an employer may enter into a labour-contract with any native of India in a labour-district for a term not exceeding four years commencing from the date of the execution of the labour-contract, if he appears, or deposes some person to appear on his behalf, with the native of India before the

(Secs. 122-123.)

Inspector or Magistrate within the local limits of whose jurisdiction the estate to which the labour-contract refers is situated. Inspector or Magistrate

(2) The Inspector or Magistrate shall thereupon explain the labour-contract to the native of India, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or the person deputed as aforesaid to execute it in his presence; and, if they execute it, shall attest the execution with his signature.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of the labour-contract shall then be given to the labourer and the other to his employer or the person deputed as aforesaid.

(4) In respect of every labour-contract, an abstract whereof is registered under section 118 or under this section, the employer who executes the labour-contract in person or the person deputed to execute the same on his behalf shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may direct.

Employers' Returns and Magistrates' Inspections.

122.(1) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, and of their dependants, in such form, and shall make to the Inspector, within the local limits of whose jurisdiction the estate is situate, such periodical returns in writing, as the Local Government may, by rule, prescribe. Registers to be kept and returns made by employer

(2) The Inspector may examine the registers so kept and muster all labourers and other persons employed on any estate within the said local limits and may verify the accuracy of the entries in the registers, or in any prescribed periodical return.

123. Any Inspector or Magistrate, or any person authorised by either of them in writing in this behalf, may enter and inspect all lands and houses wholly or partially used by or for labourers or by or for any other natives of India employed on any estate, and may require that all such labourers or other natives of India as aforesaid, or any particular class or classes of individual or individuals of them, shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives of India as aforesaid or any of them; and the employer shall be bound to comply with every requisition and to answer every inquiry so made to the best of his ability. Power for Inspector, etc., to inspect lands and houses and to make requisitions and inquiries

(Secs. 124-126.)

Regulation of Labour.

Schedule of
daily tasks
to be prepar-
ed.

124. (1) Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which the employer is in charge, and may, from time to time, alter any schedule so prepared.

(2) One copy of every schedule prepared under sub-section (1) shall be filed in a book, which shall be open to the examination of the Inspector, and translations thereof, in such languages as the Chief Commissioner of Assam may direct, shall be affixed in some conspicuous place accessible to the labourers to whom the schedule relates.

(3) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number of working days in the current month. The number of working days in a month shall be ascertained by deducting the number of Sundays from the whole number of days in the month.

Limitation
on tasks and
payment of
wages.

125. (1) No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in one day.

(2) Every employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage; and, failing such due provision of work, the labourer shall, if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

(3) On or before the fifteenth day of each month the employer shall pay to every labourer in his employment the wages earned by the labourer during the preceding month and still unpaid.

126. (1) Where the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing, direct that such reduction as is specified in the order be made in the scheduled daily tasks.

(2) The employer shall at once make the reduction so ordered, but may if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to summon a Committee to inquire into the schedule.

(3) Every Committee summoned under sub-section (2) shall consist of—

(a) the Inspector,

(b) some person to be nominated by the employer whose schedule is to be inquired into, and,

(c) if practicable, a medical officer.

Provisions
for revision
of schedule
by Inspector
subject to
appeal to
Committee.

(Secs. 127-130.)

(4) Where the employer fails to nominate a person within seven days after being thereunto requested in writing by the Inspector, the Inspector, instead of the employer so failing, may nominate a person.

(5) Where the Committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

127. (1) Where the Committee, or a majority thereof, is of opinion that the scheduled daily tasks or any of them are unreasonable, the Committee shall order them to be modified and reduced in such manner as it may think fit. Committee to revise schedule.

(2) The employer shall thereupon alter the schedule accordingly, and copies and translations of the same so altered shall be filed and affixed in the manner provided by section 124, and shall, as between him and the labourers concerned, take the place of the former schedule.

128. (1) Notwithstanding anything contained in any schedule of daily tasks, the Inspector may order that any specified labourer, who is, in his opinion, unable from weakness to earn by his labour the sum of one anna-and-a-half *per diem*, according to the schedule, shall receive, in lieu of actual earnings, subsistence-allowance at the rate of one anna-and-a-half *per diem*, or diet on a scale to be approved by the Inspector. Provision for weekly labourers.

(2) Any subsistence-allowance ordered under sub-section (1) may be recovered from the employer of the labourer concerned.

Incapacity for Labour.

129. (1) The Inspector within the local limits of whose jurisdiction a labourer is employed may release the labourer, for such period as he thinks fit, from performing his labour-contract, if he is, in the opinion of the Inspector, temporarily unfitted, by reason of sickness or any other sufficient cause, for the performance thereof. Inspector may suspend contract of any labourer temporarily unfitted for labour.

(2) Every release granted under sub-section (1) shall be endorsed by the Inspector on the labour-contract, and the time during which the release continues shall not be reckoned as part of the term for which the labourer is bound to serve.

(3) Every labourer released as aforesaid shall, during the release, receive such subsistence-allowance from his employer as the Inspector may think sufficient.

130. (1) Where any labourer is compelled, by reason of sickness, to absent himself from work, he shall receive from his employer, for each day on which he is so absent, subsistence-allowance at the rate of one absent from labour

(Secs. 131-133.)

anna-and-a-half, or, if in hospital, sick-diet on a scale to be approved by the Inspector.

(2) Where the period during which a labourer is so absent exceeds the total number of thirty days in any one year, and the employer, as soon as that number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of that number shall be added to the term of the labour-contract, unless the labourer refunds to the employer the sum of one anna-and-a-half for each day so in excess.

(3) The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time, on the application of either the employer or a labourer, endorse on the labour-contract of the labourer, after such inquiry as he may think necessary, the number of days so to be added to the term thereof:

Provided that an employer, who omits to apply for such endorsement as aforesaid at the time when the Inspector is actually visiting the estate, shall in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, be debarred from applying afterwards for endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned.

Discharge of
labourer per-
manently in-
capacitated.

131. (1) Where, in the opinion of the Inspector, a labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect in writing and deliver the certificate to the employer of the labourer or to the representative of the employer, and, from the date of the certificate, the labour-contract of the labourer shall wholly determine.

(2) Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

(3) Every sum so awarded and any such subsistence-allowance as is provided for by section 129 or section 130 may be recovered from the employer of the labourer concerned.

Accommodation for Labourers.

House-ac-
commodation,
water-supply
and sanitary
arrangements
for labourers.
Supply of
food-grain
for labourers.

132. Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house accommodation, water-supply and sanitary arrangements as the Local Government may, by rule, prescribe.

133. (1) Where the food-grain commonly used by any class of labourers is not procurable by them at reasonable prices in the local

(Secs. 134-136)

markets near the estate on which they are employed, their employer shall be bound to supply them therewith at a reasonable price

(2) The Local Government may, by notification in the local official Gazette, declare, either generally or for each district, or part of a district what shall, for the purposes of this section, be deemed to be a reasonable price

134. (1) Subject to such rules as the Local Government may make in this behalf, any Inspector may, by order in writing,— Provisions for rationing.

(a) direct that, on any specified estate within the local limits of his jurisdiction, all labourers or any specified class of labourers shall be furnished by their employers with rations, cooked or uncooked, on such scale and for such period, not exceeding three months from the date of their arrival on the estate, as may be specified in the order,

(b) direct that any specified labourer shall be exempt from the effect of any general order so made, if he is satisfied that the labourer is able to earn a full wage and desires to provide himself with proper and sufficient food,

(c) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew that direction for a like term

(2) The cost of each labourer's ration furnished to him in accordance with any direction given under sub section (1) shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which the direction is in force

135. Where, in the opinion of the Inspector, an employer does not provide such hospital accommodation in a suitable place available, to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of his labourers, as the Local Government may direct, the Local Government may require the employer to contribute to the support of a central hospital to be established, or to the pay of a medical officer to be appointed, such sum proportionate to the number of labourers so employed, as it thinks fit Provision for hospital accommodation, medical attendance

136. (1) Any Inspector or Assistant Inspector, who is himself a Magistrate, may, with respect to any estate situate within the local limits of his jurisdiction, inquire whether the employer in charge of the estate has provided for his labourers house accommodation, water supply, sanitary arrangements, food grains and rations in accordance with any Regulation relating to the supply of food, etc.

(Secs. 137-138.)

required
the rules.

rules made by the Local Government under section 132 or 134 or any notification issued under section 133. *

(2) At the instance of any Inspector, or Assistant Inspector, a similar inquiry may be made by a Magistrate.

(3) Every inquiry under this section shall be made at some place on, or within ten miles of, the estate to which it relates, and shall be conducted and dealt with as if it were an inquiry by a Magistrate under the Code of Criminal Procedure, 1898. [1]

Localities unfit for the Residence of Labourers.

report by
Inspector and
inquiry by
Committee.

137. (1) Where, in the opinion of the Inspector, an estate or portion of an estate situate within the local limits of his jurisdiction is, at any time, by reason of climate, situation or condition, unfit for the residence of labourers, or of any particular class of labourers, he shall give notice, in writing, of his opinion to the District Magistrate, who shall forthwith, by order in writing, summon a Committee to inquire into the matter.

(2) The District Magistrate may also of his own motion summon a Committee, where, either from his own observation or upon the report of an Inspector, Magistrate or medical officer, he is of opinion that an estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers.

(3) Every Committee summoned under this section shall consist of—

(a) the District Magistrate;

(b) the Inspector;

(c) the civil medical officer of the district; and

(d) one or more employers of labourers:

(4) Provided that, if the District Magistrate is unable to procure the service on the Committee of any employer of labourers, he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on the Committee.

Inquiry by
Committee
by order of
Local
Government.

138. Where it appears to the Local Government, upon the report of an Inspector, Magistrate or medical officer,—

(a) that an estate or portion of an estate is, for any of the reasons given in section 137, unfit for the residence of labourers or of any particular class of labourers, or

(Secs. 139-141.)

- (b) that the percentage of mortality of labourers or of any particular class of labourers employed on an estate or on portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 142,

the Local Government may direct the District Magistrate to summon a Committee under section 137; and the District Magistrate shall forthwith proceed to summon a Committee accordingly.

139. Every Committee summoned under section 137 or section 138 shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing it relates, and shall hear and record such information on the subject as the owner of the estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it. Proceedings of Committee.

140. (1) Where the Committee, or a majority thereof, is of opinion that the estate or portion, or any part of the estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, the Committee shall record a finding to that effect. Finding of Committee and consequences.

(2) Where a finding has been recorded under sub-section (1), no labourer, or no labourer of the particular class to which the finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of the estate or portion, as the case may be, which is found unfit for the residence of such labourers.

(3) Where a labourer is released under sub-section (2) from the performance of his labour-contract to labour on any estate he shall be bound to labour on any other estate belonging to the same owner or in charge of the same employer and situate in the same labour-district; or, where the finding relates only to a portion of an estate, or any other portion of the same estate. Where the finding relates to the whole of any estate and the owner has no other estate or the employer has charge of no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of the labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if that copy is not forthcoming shall give to the labourer certificate to that like effect.

141. The Local Government may call for the proceedings of any Committee summoned under section 137 or section 138, and, if the finding of the Committee is not unanimous, the Local Government may record any finding thereon which the Committee was competent to record, and the finding so recorded by it shall have the same effect as the finding of a Committee under section 140. Power for Local Government to pass orders on proceedings of Committee.

(Secs. 142-144.)

Excessive
mortality on
estates.

142. Where it appears to the Local Government or to the District Magistrate that the number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years as the case may be, than seven per cent., the Local Government, or the District Magistrate, may depute the civil medical officer of the district or any other qualified medical officer to inquire into and report on the following matters, namely:—

- (a) the cause or causes of the mortality;
- (b) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures on the part of the owner of the estate or portion thereof, or of the employer in charge of the estate or portion, causing or contributing to the mortality;
- (c) the fitness or otherwise of the estate or portion for the residence of labourers:

Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government, or the District Magistrate, may direct an inquiry under this section limited to that particular class of labourers.

Medical
officer
to report.

143. The medical officer deputed under section 142 shall, as soon as may be, inquire into the matters referred to therein and shall hear and record such information relating to those matters as the owner of the estate or portion or the employer in charge of the same, or the Inspector may place before him and shall visit and inspect the estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded and the notes of his inspection of the estate or portion, and the Local Government shall cause the employer to be furnished with a certified copy of such report.

Power for
Local
Government
to declare
estate
unfit for
residence.

144. Where the Local Government, after perusal and consideration of the said report, information and notes, is of opinion that the mortality was caused by the want, on the part of the owner of the estate or portion, or the employer in charge of the same, of due care or precaution or of the adoption of proper and available sanitary measures, or that the

(Secs. 145-147.)

estate or portion is unfit for the residence of labourers or of any particular class of labourers, it may make a declaration in writing to that effect, and the declaration so made shall have the same effect as the finding of a Committee under section 140.

145. (1) Where it appears to the Inspector that any estate or smaller area, which has been found, or declared under any of the foregoing provisions, to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of labourers or of that class of labourers as the case may be, he shall, with the previous sanction of the District Magistrate of the district in which the estate or area is situate, give a certificate to that effect signed by him.

Power for Inspector to certify fitness of estate or portion found or declared to be unfit.

(2) On the grant of a certificate under sub-section (1), all such labourers as are mentioned or referred to in section 140, sub-section (3), whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates for the unexpired periods (if any) of their respective contracts.

Complaints made by Labourers

146. Where a labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to a Magistrate of personal ill-usage or breach, on the part of his employer, or such person as aforesaid, of any of the provisions of this Act or of any rule thereunder, the person to whom the statement is made shall forthwith send the labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate:

Labourer wishing to complain of personal ill-usage or breach of Act to be sent by employer to Inspector or Magistrate.

Provided that, where more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made may, instead of sending them to such Inspector or Magistrate as aforesaid, give the Inspector or Magistrate notice, in writing, of their complaint.

147. (1) Where a complaint is made to an Inspector or Magistrate under section 146, or where an Inspector or a Magistrate receives, under that section, notice in writing of a complaint, or where an Inspector or a Magistrate has other reasonable grounds for believing that an employer, or person acting on his behalf, has personally ill-used, or committed any such breach as is mentioned in section 146 in respect of a labourer, the Inspector or Magistrate shall, as soon as may be, forward

Inspector or Magistrate to be provided in case of complaint.

(Secs. 148-150.)

to some place, not more than ten miles from the principal place of business of the employer, situate within the local limits of his jurisdiction, and inquire into the matter complained of:

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that the ill-usage or breach has been committed is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction the ill-usage or breach has been committed.

(2) For the purposes of every inquiry made under sub-section (1), the Inspector or Magistrate may summon and examine any person as a witness.

Untrue or
frivolous
complaints.

148. (1) Where, upon an inquiry made under section 147 on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is untrue or frivolous or vexatious, he shall dismiss the complaint; and in that event shall endorse on the employer's copy of the complainant's labour-contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour.

(2) Every endorsement made under sub-section (1) shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

Award of
compensation
to employer.

149. (1) Where a complaint is dismissed under section 148, the Inspector or Magistrate may award to the employer any reasonable compensation on account of the expense incurred by him in connection with the complaint, and shall endorse the amount of the compensation so awarded on the complainant's copy of the labour-contract.

(2) The complainant shall be bound to pay the amount awarded under sub-section (1); and, in default of payment, his labour-contract shall not be deemed to have determined until he has worked off the amount at the rate of one day's labour for each four annas of the same.

Complaints
disclosing
grounds for
further
proceedings.

150. (1) Where, upon an inquiry made under section 147 by a Magistrate or by an Inspector who is a Magistrate, the Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law.

(2) Where the Inspector is not a Magistrate and is of such opinion as aforesaid, he shall without delay send the complainant and his witnesses

(Secs. 151-152.)

(if any) to the nearest Magistrate, who shall thereupon dispose of the case according to law.

151. (1) Where, upon the complaint of a labourer, it is proved to the satisfaction of a Magistrate that the wages of the labourer are in arrear for two months after the first day of the month succeeding the month in which they were earned, or where it is proved to the satisfaction of a Magistrate that the wages of a person whose labour-contract has determined have been withheld for any period after determination, the Magistrate may award to such labourer or person as aforesaid the amount which appears to be then due to him, and also, by way of compensation, such further sum, not exceeding that amount, as to the Magistrate seems just.

Recovery of arrears of wages and compensation.

(2) On the failure of an employer to pay any amount awarded under sub-section (1), the Magistrate may recover the same from the employer and pay it to the labourer or other person concerned.

152. (1) Where it is proved to the satisfaction of a Magistrate—

Power to cancel contract on conviction of employer or accumulation of arrears of wages.

(a) that an employer, or any person placed by an employer in authority over a labourer, has been convicted of any offence causing injury to the person or loss or damage to the property of the labourer, and, under the Code of Criminal Procedure, 1898, [1] triable exclusively by the Court of Session; or

(b) that an employer or any person placed by an employer in authority over a labourer has been twice convicted of any such offence as aforesaid as against the labourer and under the said Code triable by a Magistrate; or

(c) that the wages of a labourer are in arrear to an amount exceeding the whole of his wages for four months; or

(d) that a labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill-treatment by his employer or any such person as aforesaid;

the Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of the labourer and award to him compensation not exceeding thirty rupees.

(2) Every cancellation under sub-section (1) shall be certified by the Magistrate on the back of the labourer's copy of the labour-contract, or.

[1] Printed in General Acts, 1898-1903, Vol. 19, p. 21.

(Secs. 153-156.)

if that copy is not forthcoming, by writing under the delivered to the labourer.

Power to
Local Gov-
ernment to
cancel con-
tracts of
labourers
whose
condition is
unsatisfac-
tory owing
to
insufficiency
of earnings.

153. (1) Where it appears to the Local Government that the condition of the labourers on an estate, or of any class or number of them, is unsatisfactory owing to the insufficiency of earnings to maintain them in health and comfort, after such inquiry as it thinks necessary, the labour-contracts of all such labourers be cancelled.

(2) No labour-contract shall be cancelled under this section unless the employer has been given an opportunity for showing cause why it should not be cancelled.

Power to
cancel
contract of
labourer
related to
labourer
whose
contract is
cancelled or
determined.

154. Where the labour-contract of a labourer is cancelled or has been determined under section 119, section 120, or section 152, the Inspector or Magistrate, as the case may be, may, in his discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer employed on any estate of the same employer, being the wife, husband, father, mother, or daughter of the labourer whose labour-contract is or has been cancelled or has so determined.

Determination of Labour-contracts.

Endorsement
of determina-
tion on
labour-
contract.

155. Whenever a labour-contract is determined, the Inspector or Magistrate shall endorse on the labourer's copy of the contract the fact of its determination, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect; and, where the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such determination or give such certificate as aforesaid.

(2) The employer shall give to the Inspector notice of such determination as aforesaid within one month after the date of such determination.

Power to
redeem
labour-
contract.

156. (1) Where a labourer is able and desirous to terminate his labour-contract at the expiration of its term, or at any time before the expiration of its term, he may, by payment of a sum equivalent to the value of the unexpired term, the labourer may require his employer to allow him to go, before the Inspector within the local jurisdiction he is employed; and on his depositing such sum with the Inspector, the Inspector shall give notice to the employer to allow the labourer to go.

(Secs 157-158)

(2) If no sufficient cause is shown as aforesaid, the Inspector shall require the labourer's copy of the contract to be produced, and on production thereof shall endorse thereon a certificate that he has been released under this section from his contract, or, if that copy is not forthcoming, shall deliver to the labourer a certificate under his hand to the like effect; and shall, in either case, hold the sum so deposited to the credit of the employer of the labourer.

(3) The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every month of the third and fourth years of the original term of the contract:

Provided that, if a person who has completed four years' service under a labour-contract enters into a new labour contract for one year, he shall not be entitled to redeem the unexpired portion of such new labour-contract unless on the payment of two rupees for each month of the said unexpired portion.

157. (1) Where the labour-contract of a labourer determines at a time different from that of any other labourer who is the wife or husband of that labourer, the Inspector or Magistrate may, on the joint application of both labourers, equalize the terms of their respective contracts, and may, for this purpose, add to the term of the contract which expires first, and deduct from the term of the contract which expires last in such proportions as may appear to him to be equitable.

Power to equalize terms of contract in case of husband and wife

(2) Every addition or deduction from the term of any labour-contract made under sub-section (1) shall be certified by the Inspector or Magistrate on the back of both the employer's and the labourer's copies of the contract, or, if those copies are not forthcoming, by writing under the Inspector's or Magistrate's hand, copies of which shall be delivered to the employer and the labourer.

Repatriation of Labourers and Others.

158. (1) Where any labourer, not being a native of the labour-districts whose labour-contract has determined under section 131, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receivable by the labourer from his employer, as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise, as shall, in the Inspector's opinion, be sufficient to cover the entire expenses of sending the labourer back to his native dis-

Repatriation of labourer at his own cost if he so determines as per section 131

(Secs. 159-161.)

trict. The amount shall be deposited by the employer in the Inspector's office and shall be expended by the Inspector in sending the labourer back to his native district.

(2) On the failure for the space of twenty-four hours of an employer to comply with an order made under sub-section (1), the Inspector may expend the amount specified in the order and may recover the same from the employer or the labourer concerned.

Repatriation
of persons
emigrating
not under
labour-con-
tract who are
physically
incapacitated.

159. Where any person, being a native of India but not being a labourer, who has emigrated from his native district to a labour-district for the purpose of labouring for hire in any estate situate therein, or being a dependant of any person who has so emigrated, has no means of subsistence, and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back, together with his dependants (if any) to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing to the Labour Transport Fund constituted under section 218.^[1]

Repatriation
of labourers
wrongfully
recruited.

160. (1) Subject to any orders which the Local Government may make in this behalf, the Inspector or Magistrate may, if he thinks fit, detain and may send back to his native district any labourer, together with his dependants (if any), whose contract has been cancelled under section 119 or section 120 on the ground of coercion, undue influence, fraud or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer on whose estate the labourer concerned was under contract to labour.

Repatriation
of persons
not under
labour-con-
tract wrong-
fully
recruited.

161. (1) Where it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf the person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or, if the employer cannot be communicated with without undue delay, upon his agent or any one who is accompanying or conveying the person or has forwarded or otherwise assisted him to emigrate to any labour-district or estate, to appear before the Inspector or Magistrate and show cause why the person should not be sent back to his native district.

[1] The new s. 218, post, p. 678, does not constitute a Labour Transport Fund.

(Sec. 163.)

- local agents within the Province and the form in which they shall be respectively so made;
- (c) prescribe the forms of all registers, licenses, certificates, permits and notices required under this Act with respect to the Province;
 - (d) prescribe the fees to be paid for any license granted under this Act by any officer appointed by it and for the registration of labourers or their dependants in any district in the Province;
 - (e) prescribe the particulars to be registered by a registering-officer in respect of each person who is brought before him in any district in the Province for registration as a labourer or dependant;
 - [¹](f) * * * *
 - (g) provide for the accommodation, food, clothing and medical treatment of all labourers and their dependants detained on account of sickness by order of a Magistrate at any place within any district in the Province;
 - (h) prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour-district; provide for the ventilation, cleanliness and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer; and prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels;
 - (i) prescribe the description, quantity and quality of provisions, medical drugs and other stores to be taken on board such vessels carrying labourers when such vessels are within the Province, and the daily allowance to be issued to such labourer and dependant during the journey through the same; prescribe the number of officers, cooks and other servants to be carried on board such vessels; and provide generally for the accommodation of labourers and their dependants on such vessels;
 - (j) provide for the detention and inspection of such vessels and of all the passengers, being natives of India, carried in such vessels while in transit through the Province;
 - (k) declare the routes through the Province by which labourers, emigrants under Chapter V and dependants shall travel to the labour-districts;

[¹] Clause (f) was repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and the Sch., *post*, p. 771.

(Sec 163)

- (l) prescribe the clothing to be supplied to labourers, emigrants under Chapter V and dependants while proceeding to the labour districts through the Province,
- (m) require depôts and rest houses to be provided by and at the cost of employers, * * [1] or agents for the accommodation of labourers, emigrants under Chapter V and dependants on any prescribed route, and provide for the sanitation and superintendence of such depôts and rest houses,
- (n) prescribe the mode and the numerical strength of the parties in which labourers, emigrants under Chapter V and dependants are to travel, the arrangements to be made by and at the cost of employers, * * [1] or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, * * [1] or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness,
- (o) regulate the food to be supplied by and at the cost of employers, * * [1] or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food,
- (p) regulate the water supply to be maintained by and at the cost of employers, * * [1] or agents for the use of labourers, emigrants under Chapter V and dependants,
- (q) require suitable hospital accommodation, medical treatment and maintenance to be provided by and at the cost of employers, * * [1] or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour district,
- (r) regulate the arrangements to be made by and at the cost of employers, * * [1] or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district,
- (s) prescribe the house accommodation, water supply, sanitary arrangements and amount and kind of food grains to be provided by employers for their labourers and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province, and

[1] Where is repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (No. 12) s. 7 (2), and the sub-ss. 1 p. 771 and 773, are omitted.

(Secs. 164-167.)

(t) provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

(3) Where an employer, * *^[1] agent, or other person fails to perform any act which he is by any rule made under sub-section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, * *^[1] or agent, as the case may be.

(4) In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees.

(5) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

CHAPTER IX.

PENALTIES AND PROCEDURE.

Recruitment,
etc., in con-
travention
of Act or
notification.

164. Whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

165. (*Wilful misdescription by recruiter.*) Rep. by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), Section 7 (1), and the Schedule.

166. (*Recruiter removing, etc., unregistered person.*) Rep. by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), Section 7 (1), and the Schedule.

167. (*Recruiter not supplying proper food, etc.*) Rep. by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), Section 7 (1), and the Schedule.

^[1] Words repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (1), and the Sch., *post*, pp. 771 and 773, are omitted.

(Secs. 168-171.)

168. (Labourer refusing without reasonable cause to execute contract at depôt.) Rep. by the Assam Labour and Emigration (Amendment) Act, 1915 (S of 1915), Section 7.(1), and the Schedule.

169. (1) Any labourer registered under section 69 who, without reasonable cause, refuses or neglects to execute, in accordance with the provisions of section 72, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden-sardar in procuring his registration, whichever amount is least.

(2) Every fine levied under sub-section (1) shall be paid to the garden-sardar by whom such expense as aforesaid was incurred.

170. Whoever, being a garden-sardar holding a certificate under Chapter IV,—

- (a) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in the certificate; or
- (b) fails, without sufficient cause, to return to his employer within the time specified in his certificate; or
- (c) fails to account for the money advanced to him by his employer for the purpose of engaging labourers;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both;

and may, if a labourer under a labour contract, on the application of his employer or of a person acting on behalf of the employer, be sent back or made over to his employer for the purpose of completing his term of service.

171. Whoever, being a garden-sardar holding a certificate under Chapter IV or a person appointed under * * * [1] section 76 to accompany labourers to a labour-district,—

- (a) wilfully abandons any labourer or his dependant on the way to the labour-district; or
- (b) removes or attempts to remove any person to a labour-district before he has executed a labour-contract in accordance with section 72; or

[1] Words and figures repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (S of 1915), s. 7 (1), and the Sch., part, pp. 771 and 773.

(Secs. 172-173.)

- (c) induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of the garden-sardar before he has executed a labour-contract as aforesaid or aids or attempts to aid him in proceeding to a labour-district or in leaving any such local area as aforesaid before he has executed such a labour-contract;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Garden-sardar making over labourers to unauthorised persons, etc.

[¹]172. (1) Whoever, being a garden-sardar holding a certificate under Chapter IV,—

- (a) makes over to the garden-sardar or Local Agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer or whom he has assisted or intends to assist to emigrate under Chapter IV as modified by any notification issued under section 91; or
- (b) places any such person as aforesaid in a place of accommodation used in connection with the unlawful recruitment or engagement of labourers; or
- (c) allows any person unlawfully recruited or engaged as a labourer to share the accommodation provided by him under section 62;

shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and his certificate may be impounded by the convicting Magistrate.

(2) Any Māgistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned.

Garden-sardar failing to comply with instructions endorsed on way-bill.

173. Any garden-sardar holding a certificate under Chapter IV or person appointed by him as provided by section 76, who accompanies labourers to the labour-districts and fails to present a way-bill as required by section 79, sub-section (1), or to carry out any of the instructions entered in the way-bill, shall be punishable with fine which may extend to twenty rupees.

[¹] Substituted for the original by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), s. 7 (2) (iii), *post*, p. 772.

(Secs. 174-178.)

174. Whoever,—

(a) • • • • • *^[1]

Unlawful
engagement
of emigrants
by garden-
sardar.

(b) being a garden-sardar employed under the control of an agency or association to engage persons and assist them to emigrate in accordance with the provisions of section 91, infringes any of the conditions prescribed by or under that section;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees for every such infringement.

175. (*Local agent or selecting agent working with contractor.*) *Rep. by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), Section 7 (1), and the Schedule.*

176. (1) Whoever,—

(a) being a master not licensed under section 97, in contravention of section 96, sub-section (1), knowingly receives on board his vessel more than twenty passengers being natives of India; or,

Master
receiving
native
passengers on
board in
contraven-
tion of Act.

(b) being a master licensed as aforesaid, knowingly receives on board his vessel any such passengers in excess of the number specified in his license or in any order of an Embarkation Agent under section 100 for the purpose of transporting them to a labour-district,

shall be punishable with fine which may extend to two hundred rupees for each passenger so received.

(2) Nothing in this section applies to the master of a vessel exempted under section 96, sub-section (2).

177. Whoever, being a master licensed under section 98, with intent to defraud, does or suffers to be done, any act or thing whereby the state of his vessel is altered, so that the vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 100 by an Embarkation Agent, shall be punishable with fine which may extend to two hundred rupees.

Fraudulent
alteration
of vessel
after
grant of
license.

178. Whoever, being a master licensed under section 98, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 102, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

Master not
complying
with
section 102.

^[1] Repealed by the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), a C. 11, part, p. 111.

(Secs. 179-185.)

Master not
complying
with order
under
section 104.

179. Whoever, being a master licensed under section 98, fails to comply with an order of an Embarkation Agent made under section 104, shall be punishable with fine which may extend to two hundred rupees for each day during which he fails to comply with the order after the day on which the order was received by him.

Master
permitting
labourer
to leave
vessel
contrary
to section
106.

180. Whoever, being a master licensed under section 98, causes or permits a labourer finally to leave his vessel in contravention of the provisions of section 106, shall be punishable with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

Master
wilfully
omitting to
stop vessel
at certain
places.

181. Whoever, being a master licensed under section 98, wilfully omits to comply with the provisions of section 107, shall be punishable with fine which may extend to two hundred rupees.

Person
disobeying
Magistrate's
orders as to
communica-
tion between
vessel and
land.

182. Whoever disobeys any order made under section 109 by a Magistrate, shall be punishable with fine which may extend to two hundred rupees.

Master or
medical
officer
disobeying
or
neglecting
to enforce
rules.

183. Whoever, being a master licensed under section 98, or a medical officer in charge of a vessel, wilfully omits or neglects to obey or enforce on board of the vessel any provision of this Act or any rule thereunder, shall be punishable with fine which may extend to two hundred rupees.

Labourer
deserting,
etc., after
registration.

184. Whoever, having executed a labour-contract,—

(a) deserts while on his journey from the district in which he has executed the labour-contract to a labour-district; or,

(b) without reasonable cause, refuses or neglects to proceed to the place where he is to labour or to embark in any vessel when called upon to do so by an Embarkation Agent;

shall be punishable with imprisonment for a term which may extend to one month.

Employer
refusing or
omitting to
keep regis-
ters, etc.

185. Whoever, being an employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made under this Act, or knowingly keeps an incorrect register or makes an incorrect return, or wilfully omits to prepare, file or affix a schedule as required by section 124, shall be punishable with fine which may extend to two hundred rupees.

(Secs 186-191.)

186 Whoever, being an employer, or acting under the orders or on the behalf of an employer, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition made under section 123, shall for every such offence be punishable with fine which may extend to two hundred rupees

Employer or
other person
obstructing
inspection
under section
123

187 Whoever, being an employer, or acting under the orders or on the behalf of an employer, compels any labourer to perform any labour knowing that he is at the time unfit to perform such labour, shall be punishable with fine which may extend to two hundred rupees

Employer or
other person
compelling
labourer to
perform
labour for
when he is
unfit

188 Whoever buys any rations which have been furnished under section 131 to a labourer, and whoever, being a labourer, sells any rations so furnished to him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees

Persons
buying or
labourer
selling
rations

189. (1) Whoever, being an employer, wilfully omits to provide house accommodation, water supply, sanitary arrangements, food grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punishable with fine which may extend to five hundred rupees, and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order

Employer
omitting to
provide
house-accom-
modation,
etc.

(2) If the employer wilfully omits to comply with the order within the time so fixed, he shall be punishable with fine which may extend to one hundred rupees for each day during which the omission continues

(3) If the employer fails to pay the fine imposed under sub-section (2), the person on whose account he has been acting shall be liable to pay the same

190. Whoever, being an employer, fails to provide such hospital accommodation for, or to make such provision for the medical care and treatment of, labourers, as is required by any rule made under this Act, shall be punishable with fine which may extend to two hundred rupees for each week during which the default continues

Employer
neglecting
to provide
hospital ac-
commodation
therefor

191 Where any estate or portion thereof has been found under section 110, or declared under section 141, unfit for the residence of labourers, or any class of labourers, as the case may be, every employer who until a certificate has been given under section 145, causes or permits such labourers or class of labourers to reside or labour upon the estate or portion shall be punishable with fine which may extend to two hundred rupees

Employer
causing
labourers to
reside on
estate
declared
unfit for
residence

(Secs. 192-193.)

Unlawful
absence from
work.

192. (1) Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying the periods of absence. When any employer so sends any statement, he shall, at the same time, notify to each labourer concerned the fact that he has done so.

(2) Every Inspector who receives any statement so sent shall, if the employer so desires, when next visiting the estate on which the labourers to whom the statement relates are employed, inquire into each case of absence in the presence of the labourer concerned, and, if satisfied that the labourer has voluntarily and without reasonable cause absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each day of absence, endorse the days of absence on the labour-contract of the labourer, and add them to the term of the contract.

(3) The Inspector may also, at any time other than that of his visit to the estate, on the application of either the employer or the labourer, after due inquiry, endorse the days of absence on, and add them to the term of, the labour-contract:

Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the Inspector is actually visiting the estate shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence reported in statements sent to the Inspector previous to the date of his last visit are concerned.

Explanation.—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

Labourer
absent with-
out cause.

193. Whoever, being a labourer, voluntarily and without reasonable cause, absents himself from his labour for more than seven consecutive days, or for more than seven days in any one month, shall be punishable with imprisonment for a term which may extend to fourteen days; and, in case the absence has extended to twenty days, in any two consecutive months, shall be punishable with imprisonment for a term which may extend to one month.

Explanation.—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

(Secs. 194-196.)

194. Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing, in such form as the Local Government may prescribe, containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month, or previously, have been arrested or have returned to his service during the preceding month. Statement of deserters.

195. (1) Where any labourer deserts from his employer's service the employer, or any person authorized by him in this behalf, may, without a warrant and without the assistance of any police-officer, arrest the labourer wherever he may be found: Deserter may be apprehended without warrant.

Provided that, if the labourer is found within five miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant.

(2) Every police-officer shall assist in arresting any such labourer if so required by the employer or person authorized by him in this behalf.

(3) Whoever arrests a labourer under this section shall without delay take him to the police-station nearest to the place of the arrest; and if he fails to do so shall be punishable with fine which may extend to two hundred rupees.

196. (1) The police-officer in charge of such station shall, on the appearance of the parties, take down in writing the statements of the labourer arrested and of the person arresting the labourer. Procedure at Police-station.

(2) If the labourer admits the contract and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(3) If the labourer does not admit the contract or claims to be forwarded to the Magistrate, or if, for any reason, appears to the police-officer desirable that he should be so forwarded, the police-officer shall forthwith send the labourer, together with the statements recorded as aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(4) If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in sub-section (2) or sub-section (3), the Magistrate shall forward the statements and report received by him from the police to

(Secs. 197-200.)

the Magistrate within the local limits of whose jurisdiction such estate is situate. He shall also, when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such other Magistrate as aforesaid.

(5) On receipt of such statements and report the Magistrate within the local limits of whose jurisdiction the estate is situate may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry the Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to or appeared before him, require the labourer to appear before him.

Procedure on
complaint of
desertion.

197. Where an employer or a person acting on behalf of an employer complains to a Magistrate that a labourer has deserted from the employer's service, the Magistrate may, without previously examining the complainant, issue a summons for the attendance of the labourer, or a warrant for his arrest, and fix a day for hearing the complaint.

Punishment
for desertion.

198. (1) Whoever, being a labourer, deserts from his employer's service, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to twenty rupees, or with both.

(2) For a second conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees, or with both.

(3) For a third and every subsequent conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Compensa-
tion for
wrongful
arrest.

199. (1) Where it appears to a Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient cause, the Magistrate may impose a fine, which may extend to fifty rupees on the employer or person acting on his behalf by whom or at whose instance the labourer was arrested.

(2) The Magistrate may in his sentence direct that the whole or any part of the fine levied under sub-section (1) be paid by way of compensation to the labourer arrested.

Cancellation
of contract
by desertion.

200. Where a labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour-contract of the labourer, and shall endorse on his copy of the contract a certificate of the cancellation; or, if that copy is not forthcoming, he shall give to the labourer a written certificate to the like effect.

(Secs. 201-205.)

201. Whoever, being a labourer, is guilty of habitual drunkenness, or wilfully disregards any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which the labourer is employed, shall be punishable with imprisonment for a term which may extend to one week, or with fine which may extend to five rupees.

Penalty for drunkenness or neglect of sanitary regulations.

202. (1) The employer of a labourer sentenced to imprisonment for any offence under this Act, or any person authorized to act in this behalf for the employer, may apply to the Magistrate that the labourer be made over to him for the purpose of completing his labour-contract.

Portion of sentence may be cancelled on application of employer.

(2) On an application being made under sub-section (1), the Magistrate may, if he thinks fit, order that the labourer be made over or forwarded to his employer; and in that case the Magistrate shall cancel the sentence passed on the labourer or any unexpired portion of the same, and shall endorse on his copy of the labour-contract a certificate of the cancellation, or, if that copy is not forthcoming, shall give him a written certificate of the cancellation.

(3) Nothing in this section shall be deemed to affect the provisions of section 200.

203. Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in the making over or forwarding of the labourer; and shall, before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray that expense.

Expense of forwarding labourer to be paid by employer.

204. (1) On the expiry of any sentence of imprisonment passed on a labourer for any offence under this Act, the Magistrate shall, subject to the provisions of section 200, make the labourer over to any person appointed on the part of his employer to take charge of him; and no conviction under this Act or imprisonment thereon shall, save as aforesaid, operate as a release to any labourer from the terms of his labour-contract.

Conviction not to operate as a release.

(2) Where no person is present on the part of the employer to take charge of the labourer on the expiry of his sentence, the Magistrate shall forward the labourer to the principal place of business of his employer situate within the local limits of the Magistrate's jurisdiction.

(3) Any expenditure incurred under sub-section (2) may be recovered from the employer of the labourer concerned.

205. (1) Where a labourer is sentenced to imprisonment for any offence under this Act other than an offence under section 193 or section 198, the Magistrate shall endorse on the employer's copy of the labour-contract the term for which the labourer is so sentenced.

Endorsement on contract of imprisonment for offence.

(Secs. 206-208.)

(2) When a labourer is convicted of unlawful absence under section 193 or desertion under section 198, the Magistrate shall endorse the period of the labourer's absence or desertion on the employer's copy of the labour-contract.

(3) In a case of desertion falling under sub-section (2) no endorsement shall be made if the labour-contract has been cancelled under section 200, or if more than one year has elapsed from the expiry of the original term of the labour-contract or more than three years have elapsed from the date when the labourer deserted, to the date of his conviction.

(4) The term of imprisonment to which a labourer is sentenced under section 193 or section 198 shall be deducted from the term of service to which he is bound by his original contract or by any endorsement made under sub-section (2).

(5) No endorsement shall be made in a case of desertion under sub-section (2) unless the employer has duly reported the particulars of the desertion as provided in section 194.

Endorsement on contract of period of any other imprisonment.

206. Where a labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, if the employer or a person acting on behalf of the employer so requests, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if that period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of that period as is equal to the unexpired term.

Periods endorsed to be added to term of contract.

207. The periods endorsed under section 205 or section 206 shall be added to the term for which the labourer contracted to serve; and the labourer shall not be deemed to have performed his labour-contract until he has served for the term specified therein in addition to the periods so endorsed.

Other person enticing away, harbouring or employing labourer under labour-contract.

208. (1) Whoever, knowing that a labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice the labourer to leave his employer, or harbours or employs any labourer who has, in contravention of the terms of his labour-contract, left his employer shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(2) The convicting Magistrate may, in his discretion, award to the employer with whom the labourer has contracted the whole or any part of any fine levied under sub-section (1).

(Secs. 209-214.)

209. Whoever, being bound under section 118, sub-section (2), to forward any labour-contract to the Inspector, or under section 120 to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward the labour-contract to the Inspector at or within the time specified, or to cause the labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punishable with fine which may extend to two hundred rupees.

Failure to forward contract under section 118 or to cause labourer to appear under section 120.

210. Whoever, being bound by section 146 to send any labourer before or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send the labourer or to give the notice, shall be punishable with fine, which may extend to two hundred rupees.

Employer or other person neglecting to send labourer before Magistrate as provided by section 146.

211. Whoever, being an employer,—

- (a) refuses or wilfully neglects to endorse the labourer's copy of his labour-contract as required by section 155, or
- (b) detains a labourer after the determination of his labour-contract; or
- (c) fails to give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof;

Employer refusing to endorse labour-contract, etc.

shall be punishable with fine which may extend to two hundred rupees.

212. Whoever, being an employer or a person acting for an employer refuses or neglects to comply with the request of a labourer made under section 156, shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.

213. Whoever abets, within the meaning of the Indian Penal Code, [1] any offence against this Act or any rule hereunder, shall be punishable with the punishment provided for the offence.

214. Whoever commits any offence against this Act or any rule hereunder shall be triable for the offence in any place in which he may be found, as well as in any other place in which he might be tried under any law for the time being in force.

Place of trial for offence.

(Secs. 215-219.)

CHAPTER X.

MISCELLANEOUS.

Recovery of
sums due
under Act.

215. Every sum recoverable under this Act from any person may be recovered on application to a Magistrate having jurisdiction where the person is for the time being resident, by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to that person.

Wages due
under labour-
contract a
charge upon
estate.

216. All arrears of wages due under any labour-contract shall be a charge upon the estate upon which the labourer to whom the labour-contract relates has been engaged to labour; or, if he has engaged to labour upon any one of several estates managed by the same employer, shall be a charge upon that estate upon which he for the time being actually labours.

Owner of
estate for
time being
has all
rights and
remedies in
respect of
labour-
contracts
charged on it.

217. (1) Whenever an estate on which any labourer has under this Act contracted to labour is transferred by act of parties or operation of law or devolves, the person to whom it is so transferred or on whom it devolves shall be bound by the labour-contract of the labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves would have been bound thereby, and shall have the same rights and remedies under it as such person would have had thereunder, if the estate had not been transferred or had not devolved.

(2) No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect of any breach of the labour-contract of the labourer which occurs after he has ceased to be owner.

Application
of proceeds
of fines, fees
and rates.

[¹]**218.** The proceeds of any fines, fees and rates under this Act which may be credited to Government shall be expended, in such manner as the Governor General in Council may direct, on paying the salaries and allowances of officers appointed under this Act and their pensionary and leave allowances, of meeting the cost of sending labourers and other persons back to their native districts, and generally on defraying the expenses of carrying out the purposes and objects of this Act and any rules made thereunder, and not otherwise.

Duty of
Assistant
Inspector.

219. Every Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorized in writing by the Inspector to perform or exercise.

[¹] This section was substituted for the original s. 218 by the Assam Labour and Emigration (Amendment) Act, 1908 (11 of 1908), s. 3, *post*, p. 717.

(Secs. 220-223. *The First Schedule.*)

220. All powers conferred by this Act on any Superintendent, Medical Inspector, Emigration Agent or other officer may be exercised from time to time as occasion requires -

Powers of officers under this Act to be exercisable from time to time

221. The Chief Commissioner of Assam may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that any labour-district or local area therein shall, on and with effect from a day to be fixed in the notification, cease to be subject to all the provisions or any specified provision of this Act; and from the day so fixed such labour-district or local area as aforesaid shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be.

Power to exempt labour district from Act

222. The publication of any notification under this Act shall not affect any act done, offence committed or proceedings commenced before such publication.

Notification not to affect prior acts, etc.

223. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeal

THE FIRST SCHEDULE

FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER

(See section 5.)

This contract, made under the Assam Labour and Emigration Act, 1901, between A B (hereinafter called the labourer) of the one part and * [C D (representative, local agent or garden-sardar) on behalf of] E F (hereinafter called the employer) on the other part, witnesseth that the said * [representative or local agent or garden-sardar on behalf of the said] employer doth hereby promise the said labourer, that if he, the said labourer, do remain and labour † on the ^{estate} _{premises} ‡ of his said employer in the labour district of _____ for the term of _____ years from the date of the execution of this contract, he, the said employer, will, from the date on which the said labourer commences to labour on the said ^{estate} _{premises}, pay or cause to be paid to the said labourer monthly wages at the rate of Rs § _____ for

* Parts in brackets to be omitted if the contract is made without the intervention of a representative, local agent or garden-sardar.

† State nature of labour, if the labourer is to be required to work under the ground.

‡ As the case may be.

§ State rates for various periods of contract.

(The First Schedule.)-

a. completed daily task regulated in accordance with the provisions of the said Act,* and, when such task as aforesaid is not completed, monthly wages calculated at the same rate in proportion to the amount of work actually done and that during the said period he, the said employer, will supply to the said labourer rice at a price of Rs. per maund and faithfully comply with all rules regarding house-accommodation, medical treatment and the supply of food grains or rations to the said labourer which the Local Government may prescribe; and this contract further witnesseth that the said labourer doth hereby, in consideration of the aforesaid promise, agree so to remain and labour for the said employer. In witness whereof the said parties to these presents have hereunto set their hands at this day of 19 .

Signature of Labourer and of Employer (or of his Representatives, Local Agent or Garden-sardar.)

Form of Description of Labourer.

NAME.	Father's name.	Age.	Sex.	Caste.	RESIDING—			Descriptive marks.
					District.	Thana.	Village.	

* [During the first six months of the contract the employer is to pay a full wage for half the daily task, unless an Inspector certifies that the labourer is able to perform a full task.]

(The First Schedule, The Second Schedule.)

(Endorsement to be filled up by officer before whom the contract is executed.)

I hereby certify that, before the said *A D* signed this contract, I personally explained it to him.

Dated at _____ } Signed _____
 This day of } Superintendent or Registering-officer
 } or Inspector or Magistrate.

(Endorsements on labourer's copy of contract to be filled up when the contract is determined or cancelled.)

I hereby certify that the foregoing contract has been determined by effluxion of time.

Dated at _____ } _____
 This day of } Signature of Employer or Inspector.

I hereby certify that the foregoing contract has been cancelled under the provisions of section _____ of Act 6 of 1901.

Dated at _____ } _____
 This day of } Signature of Inspector or Magistrate.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 223.)

Year.	No.	Short title.	Extent of repeal.
1852	1	<i>Acts of the Governor General in Council.</i> The Assam Labour and Emigration Act, 1852.	The whole.
1901	12	The Repealing and Amending Act, 1901.	So much of section 2 and the first schedule as relates to Act 1 of 1852.

(The Second Schedule.)

Year	No.	Short title.	Extent of repeal.
1893	7	The Inland Emigration Act, 1893 .	The whole.
1897	5	The Repealing and Amending Act, 1897.	So much of section 2 and of the first and second schedules as relate to Act 1 of 1882 and Bengal Act 1 of 1889.
		<i>Act of the Lieutenant-Governor of Bengal in Council.</i>	
1889	1	The Inland Emigrants Health Act, 1889.	The whole. }

ACT 1 OF 1903.

(THE AMENDING ACT, 1903) [1]

(6th March, 1903.)

An Act to facilitate the citation of certain enactments,
[2] [and] to amend certain enactments
• • • [2]

Whereas it is expedient to facilitate the citation of the enactments specified in the first Schedule to this Act;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second Schedule to this Act; • [2]

It is hereby enacted as follows:—

1. This Act may be called the . . . • [2] Amending Act, 1903. Short title.

2. Each of the enactments described in the first three columns of the first Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof. Citation of certain enactments.

3. The enactments specified in the second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of certain enactments.

4 and 5. (*Repeal of certain enactments and savings.*) *Rep. by the Repealing and Amending Act, 1914 (10 of 1914), section 3, Sch. II, post, p. 747.*

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1903, Part V, p. 73, and for Proceedings in Council, see *ibid.*, Part VI, p. 7.

LOCAL EXTENT.—Since this Act has no "local extent" clause, it must (so far as applicable) be taken to extend to the whole of British India. It is printed in this Code because portions of the Schedules which affect Bengal are omitted from the Act as published in the General Acts, 1893-03, Ed. 1900, p. 548.

The Act is in force in the Angul District—see Vol. IV, Part VII, and the Buxthal Parganas, *ibid.*

[2] Introduced by the Repealing and Amending Act, 1914 (10 of 1914), s. 2, Sch. I, post.

[3] Repealed by the Repealing and Amending Act, 1914 (10 of 1914), s. 3, Sch. II, post.

(The First Schedule.)

THE FIRST SCHEDULE.

SHORT TITLES.

(See section 2.)

Year.	No.	Title or subject.	Short title.
1	2	3	4

Part I.—Regulations of the Bengal Code.

1793	19 ^[1]	A Regulation for re-enacting, with modifications, the rules passed by the Governor-General in Council on the 1st December, 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed <i>bádsháhi</i> or royal; and for determining the amount of the annual assessment to be imposed on lands so held which may be adjudged or become liable to the payment of public revenue.	The Bengal Revenue-free Lands, (Non-Bádsháhi Grants) Regulation, 1793.
"	37 ^[1]	A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold <i>Allámgha</i> , <i>jágir</i> and other lands exempt from the payment of public revenue, under grants termed <i>bádsháhi</i> or royal; and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid.	The Bengal Revenue-free Lands (Bádsháhi Grants) Regulation, 1793.
1794	3 ^[1]	A Regulation for prescribing the process by which <i>Tahsildárs</i> are to demand payment of arrears; and for enabling the Collectors to recover from native officers employed under them public money or papers which they may embezzle or retain.	The Bengal Native Revenue-officers Regulation, 1794.

(The First Schedule.)

THE FIRST SCHEDULE—contd

Year	No.	Title or subject.	Short title
1	2	3	4
<i>Part I.—Regulations of the Bengal Code—contd.</i>			
1795	1 ^[1]	<i>A Regulation for fixing in perpetuity the revenue assessed on the lands in the Province of Benares, for the more general restoration of the ancient zamindars</i>	<i>The Benares Permanent Settlement Regulation, 1795</i>
"	15 ^[1]	<i>A Regulation for referring certain cases to the decision of the Rajs of Benares</i>	<i>The Benares Family Domains Regulation, 1795</i>
"	27 ^[1]	<i>A Regulation declaratory of certain reservations made by Government, and of rights preferred to the proprietors of landed estates, under the Permanent Settlement of the land revenue made in the Province of Benares, for allowing of the transfer or division of entire estates, or portions of estates and prescribing rules for apportioning the fixed panna on the several shares of estates which may be divided or portions of estates which may be transferred</i>	<i>The Benares Permanent Settlement (Supplemental) Regulation, 1795</i>
"	46 ^[1]	<i>A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan Laws with regard to the inheritance of landed property subject to the payment of revenue to Government in the Province of Benares</i>	<i>The Benares Inheritance Regulation, 1795</i>
1796	3 ^[1]	<i>A Regulation to prevent fraud and injustice in conditional sales of land under deeds of <i>baul-waj</i> or other deeds of the same nature.</i>	<i>The Bengal Land (Conditional Sales) Regulation, 1796.</i>
1840	8 ^[1]	<i>A Regulation for registers of estates paying revenue, and lands held exempt from the payment of revenue.</i>	<i>The Bengal Revenue-free Lands Regulation, 1840</i>

[¹] Printed in the United Provinces Code 1904 Vol. I[²] Printed in the Punjab and N. W. Code, 1902.[³] Printed *supra*, p. 87

(The First Schedule.)

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4

Part I.—Regulations of the Bengal Code—contd.

1801	1 ^[1]	A Regulation to explain and amend the rules for the division of joint estates and allotment of the fixed assessment thereupon.	The Bengal Land-revenue Assessment Regulation, 1801.
1803	23 ^[2]	A Regulation for preventing the embezzlement of public money and the withholding of public papers by the Native officers of Government in the Provinces ceded by the Nawab Wazir to the Hon'ble the English East Indian Company.	The United Provinces Native Revenue officers-Regulation, 1803.
1805	12 ^[1]	A Regulation for the settlement and collection of the public revenue in the Zila of Cuttack, including the Parganas of Pataspur, Kamardachor and Bhogra, at present included in the Zila of Midnapur..	The Cuttack Land-revenue Regulation, 1805.
„	13 ^[1]	A Regulation for the maintenance of the peace and for the support and administration of the Police in the Zila of Cuttack, and for amending certain provisions contained in Regulation 4, 1804.	The Cuttack Police Regulation, 1805.
1806	17 ^[3]	A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation 15, 1793; also for a general extension of the period fixed by Regulations 1, 1798, and 34, 1803, for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-waja, kat-kabala or other similar designation.	The Bengal Land (Redemption and Foreclosure) Regulation, 1806.

[¹] Printed *ante*.[²] Printed in the United Provinces Code, 1906, Vol. I.[³] Printed in the Punjab and N. W. Code, 1903.

(The First Schedule.)

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4

Part I.—Regulations of the Bengal Code—contd.

1817	20 ^[1]	A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of <i>darogas</i> and other subordinate officers of police.	The Bengal Police Regulation, 1817.
1819	1 ^[1]	A Regulation for re-establishing <i>Kánungos</i> and reforming the office of <i>Patwári</i> throughout the Province of Bengal; and for explaining and modifying certain parts of Regulation 12, 1817.	The Bengal <i>Kánungos</i> and <i>Patwári</i> Regulation, 1819.
"	2 ^[1]	A Regulation for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819.
1821	4 ^[1]	A Regulation for explaining the duties of an Assistant Collector of Revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of <i>parganas</i> or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.	The Bengal Land-revenue (Assistant Collectors) Regulation, 1821.
1822	3 ^[2]	A Regulation for modifying the constitution and altering the jurisdiction of the several Boards vested with the superintendence of the land-revenue in the territories belonging to the Presidency of Fort William.	The Bengal Board of Revenue Regulation, 1822.

[¹] Printed *ante*.[²] Printed in the Bengal Code, 1913-15.

(The First Schedule.)

THE FIRST SCHEDULE—contd.

Year.	No.	Title or subject.	Short title.
1	2	3	4
<i>Part I.—Regulations of the Bengal Code—contd.</i>			
1822	7 ^[1]	A Regulation for declaring the principles according to which the settlement of the land-revenue in the Ceded and Conquered Provinces, including Cuttack, Patna-pur and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.	The Bengal Land-revenue Settlement Regulation, 1822.
"	11 ^[1]	A Regulation for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice; and for making further provision for the conduct of the Revenue-officers in certain cases.	The Bengal Government Indemnity Regulation, 1822.
1823	6 ^[1]	A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.	The Bengal Indigo Contract Regulation, 1823.
1823	8 ^[1]	A Regulation for extending the operation of Regulation 7, 1822; for authorizing the Revenue-authorities to let in farm estates under temporary leases, on the default of the mortgagee, or to hold the same themselves for a term of years; for modifying and adding to the rules contained in Regula-	The Bengal Land-revenue Settlement Regulation, 1823.

[1] Printed ass.

THE FIRST SCHEDULE—contd.

Year.	No.	Title or subject.	Short title.
1	2	3	4

Part I.—Regulations of the Bengal Code—contd.

1825	9	tion 2, 1819 ; and for making certain other amendments in the existing Regulations.	
"	13 ^[1]	A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by <i>Kánúngos</i> in the Province of Bihar ; and to provide for the future settlement of such lands, as well as of the lands composing other resumed <i>lákhiráj</i> tenures with the present occupants, when so directed by Government.	The Bengal Land-revenue Settlement (Resumed <i>Kánúngos</i> and Revenue free (Lands) Regulation, 1825.
"	14 ^[1]	A Regulation to declare the extent of the authority possessed by the Revenue authorities, subordinate to the Governor General in Council, in the confirmation of <i>lákhiráj</i> tenures ; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government ; and to provide for the due application of the general laws and regulations respecting lands held free of assessment to the territory ceded by Govind Rao to the British Government, and annexed to the <i>Zila</i> of Bundelkhand, under the provisions of Regulation 2, 1818.	The Bengal Revenue-free Lands Regulation, 1825.
1828	3 ^[1]	A Regulation for the appointment of Special Commissioners for the more speedy hearing and determination of appeals from the decisions of the Revenue-authorities in regard to lands or rents occupied or collected by individuals, without payment of the revenue demandable by Government under the general law of the	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.

(The First Schedule.)

THE FIRST SCHEDULE—contd.

Year.	No.	Title or subject	Short title
1	2	3	4
<i>Part I.—Regulations of the Bengal Code—contd.</i>			
1828	3	country; and for otherwise more effectually securing the realization of the public dues.	
"	4 ^[1]	A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation 7, 1822.	The Bengal Land Revenue Settlement Regulation, 1829.
"	7 ^[1]	A Regulation for amending the provisions of Regulation 15, 1795, and for defining the authority of the Raja of Benares in the Mahals therein referred to.	The Benares Family Dominions Regulation, 1828.
1829	11 ^[1]	A Regulation for constituting Commissioners of Revenue and Circuit; for establishing a <i>Sadar</i> Board of Revenue; for modifying the constitution of the Provincial Courts; for transferring to the said Commissioners the functions now exercised by the Superintendents of Police and those of the <i>mufassal</i> special Commissioners acting under the provisions of Regulation 1, 1821; and otherwise for providing for the better administration of Civil and Criminal Justice.	The Bengal Revenue Commissioners Regulation, 1829
1830	5 ^[1]	A Regulation relating to the cultivation and delivery of Indigo plant.	The Bengal Indigo Contracts Regulation, 1830
1833	18 ^[1]	A Regulation to modify certain portions of Regulation 7 of 1822 and Regulation 4 of 1829; to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in making settlements under the above Regulations; for enforcing the production of the village accounts; for the more extensive employment of Native	The Bengal Land Revenue (Settlement and Deputy Collectors) Regulation, 1833.

[1] Printed *ask*.

[2] Printed in the United Provinces Code, 1906, Vol. I

(The First Schedule.)

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4

Part I.—Regulations of the Bengal Code—concl'd.

1833	9	agency in the Revenue Department; and to declare the intent of section 5, Regulation 7 of 1822, touching claims to <i>mālikāna</i> .
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Part II.—Acts of the Governor General in Council.

1836	10 ^[1]	Indigo Contracts	The Bengal Indigo Contracts Act, 1836.
"	21 ^[1]	Districts	The Bengal Districts Act, 1836.
1841	12 ^[1]	An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.	The Bengal Land-revenue Sales Act, 1841.
1847	9 ^[1]	An Act regarding the assessment of lands gained from the sea, or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa.	The Bengal Alluvion and Dilluvion Act, 1847.
1848	20 ^[1]	An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency.	The Bengal Landholders' Attendance Act, 1848.
1850	23 ^[2]	An Act for securing the Land-revenue of Calcutta.	The Calcutta Land-revenue Act, 1850.
1850	44 ^[2]	An Act for consolidating the Board of Customs, Salt and Opium and the Sadar Board of Revenue in the Lower Provinces of Bengal.	The Bengal Board of Revenue Act, 1850.
1855	32 ^[1]	An Act relating to Embankments.	The Bengal Embankment Act, 1855.
"	37 ^[1]	An Act to remove from the operation of the General Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.	The Sonthal Parganas Act, 1855.

[*] Printed *ante*.[²] Printed in the Bengal Code, 1913.

(The First Schedule.)

THE FIRST SCHEDULE—contd.

Year.	No	Title or subject.	Short title.
1	2	3	4
<i>Part II.—Acts of the Governor General in Council—contd.</i>			
1856	18 ^[1]	An Act relating to the administration of the public revenues in the Town of Calcutta	The Calcutta Land Revenue Act, 1856
"	20 ^[2]	An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazzars in the Presidency of Fort William in Bengal	The Bengal Chaukidari Act, 1856.
"	27 ^[1]	An Act for establishing a toll on boats and timber passing through the Karatoya river in the district of Dogra	The Karatoya Tolls Act, 1856
1857	10 ^[2]	An Act to amend Act 37 of 1855.	The Sonthal Parganas Act, 1857.
"	13 ^[2]	An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.	The Opium Act, 1857
"	21 ^[1]	An Act to make better provision for the order and good Government of the station of Howrah.	The Howrah Offences Act, 1857.
1858	31 ^[2]	An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.	The Bengal Alluvial Land Settlement Act, 1858.
1859	6 ^[1]	An Act to empower the holders of <i>chakradar</i> lands in the district of Birbhum to grant leases extending beyond the period of their own possession.	The Bengal Chitwall Lands Act, 1859.
"	10 ^[1]	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The Bengal Rent Act, 1859
"	11 ^[2]	An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency	The Bengal Land revenue Sale Act, 1859.

[¹] Printed in the Bengal Code, 1913.[²] Act 20 of 1856 was repealed in Bengal by the Rural Municipal Act, 1876 (Form Act 5 of 1876). It is printed in the Ajmere Code, 1863, the Punjab and N.W. Code, 1863, and the United Provinces Code, 1869, Vol. I.[³] Printed *ad hoc*.

(The First Schedule.)

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4
<i>Part II.—Acts of the Governor General in Council—contd.</i>			
1859	12 ^[1]	An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.	The Calcutta Pilots Act, 1859.
1867	19 ^[1]	An Act to make further provision for the administration of justice in the district of Darjeeling.	The Darjeeling (High Court's Jurisdiction) Act, 1867.
„	23 ^[2]	An Act for the suppression of murderous outrages in certain districts of the Punjab.	The Punjab Murderous Outrages Act, 1867.
1871	22 ^[3]	An Act to authorize the extension of the Chaukidari Act to places where there is no Jamadar of Police.	The Bengal Chaukidari (Amendment) Act, 1871.
1876	7 ^[4]	An Act to extend the Criminal Tribes Act, 1871, to the Lower Provinces of Bengal, and to amend the same Act.	The Criminal Tribes (Amendment) Act, 1876.
1877	9 ^[2]	An Act to revive and amend Act No. 23 of 1867.	The Punjab Murderous Outrages (Amendment) Act, 1877.
1878	12 ^[2]	An Act for the further amendment of the Punjab Laws Act, 1872.	The Punjab Laws (Amendment) Act, 1878.
1881	7 ^[5]	An Act to amend Bengal Act No. 9 of 1880 (the Cess Act, 1880).	The Bengal Cess (Amendment No. 1) Act, 1881.
1883	6 ^[1]	An Act to give power to arrest persons whose evidence is needed under Act 12 of 1859.	The Calcutta Pilots (Amendment) Act, 1883.
1884	5 ^[5]	An Act to amend the Chota Nagpur Encumbered Estates Act, 1876.	The Chota Nagpur Encumbered Estates (Amendment) Act, 1884.
1886	8 ^[5]	An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.	The Bengal Tenancy (Amendment) Act, 1886.

[1] Printed in the Bengal Code, 1913.

[2] Printed in the Punjab and N.-W. Code, 1903.

[3] Printed in the Ajmere Code, 1905, the Punjab and N.-W. Code, 1903, and the United Provinces Code, 1906, Vol. I.

[4] Act 7 of 1876 has been repealed by the Criminal Tribes Act, 1911 (3 of 1911).

[5] Printed *ante*.

(The First Schedule.)

THE FIRST SCHEDULE—*contd.*

Year	No	Title or subject.	Short title.
1	2	3	4

Part II.—Acts of the Governor General in Council—concl'd.

1895	19 ^[1]	An Act to amend the Punjab Courts Act, 1884	The Punjab Courts (Amendment) Act, 1895.
1896	17 ^[1]	An Act to amend the Punjab Land revenue Act, 1857	The Punjab Land revenue (Amendment) Act, 1896
"	15 ^[2]	An Act to amend the Punjab Municipal Act, 1891	The Punjab Municipal (Amendment) Act, 1896

Part III—Bengal Acts.

1862	3 ^[3]	An Act to amend Act 11 of 1859 (to improve the law relating to sales of land for Arrears of Revenue in the Lower Provinces under the Bengal Presidency)	The Bengal Land revenue Sales (Amendment) Act, 1862.
"	6 ^[4]	An Act to amend Act 10 of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The Bengal Rent Act, 1862.
"	7 ^[5]	An Act to repeal section 30 of Regulation 2, 1819 (for modifying the provisions contained in the existing Regulations regarding the Resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made).	The Bengal Land revenue Resumption Act, 1862.
"	8 ^[6]	An Act to improve the system of Zamindari Pacts in the Provinces subject to the Government of Bengal	The Bengal Zamindari Pacts Act, 1862

[¹] Printed in the Punjab and N. W. Code, 1903.[²] Act 18 of 1903 was repealed by the Punjab Municipal Act, 1911 (Para A 13 of 1911).[³] Printed in Vol. II of this Code.[⁴] Ben. Act 8 of 1862 was repealed by the Bengal Land Revenue (Amendment) Act, 1907 (4 of 1907).

(The First Schedule.)

THE FIRST SCHEDULE—*contd.*

Year.	No.	Title or subject.	Short title.
1	2	3	4

Part III.—Bengal Acts—contd..

1863	2 ^[1]	<i>An Act to abate and prevent nuisances arising from the smoke of furnaces in the Town and Suburbs of Calcutta.</i>	<i>The Calcutta and Howrah Smoke Nuisances Act, 1863.</i>
1864	4 ^[2]	An Act to amend Act 21 of 1836.	The Bengal Districts Act, 1864.
1865	4 ^[3]	<i>An Act for the prohibition of the practice of inoculation in the Town and Suburbs of Calcutta and in towns to which Act 3 of 1864, passed by the Lieutenant-Governor of Bengal in Council, has been or shall hereafter be extended.</i>	<i>The Bengal Prevention of Inoculation Act, 1865.</i>
"	7 ^[2]	An Act to make provision for the better regulation and supervision of Public Slaughter-houses in the Suburbs of Calcutta, and for the adoption of proper conservancy arrangements connected therewith.	The Bengal Municipal (Slaughter-houses and Meat-markets) Act, 1865.
"	8 ^[2]	An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.	The Bengal Rent Recovery (Under-tenures) Act, 1865.
1866	2 ^[3]	<i>An Act to provide for the better regulation of the Police within the suburbs of the town of Calcutta.</i>	<i>The Calcutta Suburban Police Act, 1866.</i>
"	3 ^[2]	An Act to provide for the attendance and examination of witnesses before the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations.	The Bengal Legislative Council (Witnesses) Act, 1866.

[¹] Ben. Act 3 of 1863 (the Calcutta and Howrah Smoke Nuisances Act, 1863) has been repealed by the Bengal Smoke Nuisances Act, 1905 (Ben. Act 3 of 1905).

[²] Printed in Vol. II of this Code.

[³] Printed in the Bengal Code, 1913-15.

(The First Schedule.)

THE FIRST SCHEDULE—contd.

Year.	No.	Title or subject.	Short title.
1	2	3	4
<i>Part III.—Bengal Acts—contd.</i>			
1866	7 ⁽¹⁾	An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto.	The Bengal Embankment Act, 1866.
1867	2 ⁽¹⁾	An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal.	The Bengal Public Gambling Act, 1867.
"	3 ⁽¹⁾	<i>An Act to amend the law relating to ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal.</i>	<i>The Bengal Ports Act, 1867.</i>
"	4 ⁽¹⁾	An Act to explain and amend Act 6 of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The Bengal Rent (Appeals) Act, 1867.
1868	3 ⁽¹⁾	An Act to amend the law respecting appeals in cases under Regulation 7 of 1842.	The Bengal Land revenue Settlement Act, 1868.
"	4 ⁽²⁾	<i>An Act to amend the provisions of Act 9 of 1847 (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa).</i>	<i>The Bengal Alluvion (Amendment) Act, 1868.</i>
"	7 ⁽¹⁾	An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue.	The Bengal Land-revenue Sales Act, 1868.
1869	1 ⁽¹⁾	An Act for the Prevention of Cruelty to Animals.	The Bengal Cruelty to Animals Act, 1869.
"	3 ⁽¹⁾	An Act to enable Police-officers to arrest without warrant persons guilty of cruelty to animals.	The Bengal Cruelty to Animals (Arrest) Act, 1869.

⁽¹⁾ Printed in Vol. II of this Code.⁽²⁾ Printed in the Bengal Code, 1913 14.

(The First Schedule. The Second Schedule.)

THE FIRST SCHEDULE—concl'd.

Year.	No.	Title or subject.	Short title.
1	2	3	4

Part III.—Bengal Acts —concl'd.

1894	2 ^[1]	<i>An Act to amend the Calcutta Port Act, 1890.</i>	<i>The Calcutta Port (Amendment) Act, 1894.</i>
"	4 ^[2]	<i>An Act to amend the Bengal Municipal Act, 1884.</i>	<i>The Bengal Municipal (Amendment) Act, 1894.</i>
1895	2 ^[1]	<i>An Act to further amend the Suburban Police Act, 1866, and the Calcutta Police Act, 1866.</i>	<i>The Calcutta and Suburban Police (Amendment) Act, 1895.</i>
"	4 ^[1]	<i>An Act to further amend the Calcutta Port Act, 1890.</i>	<i>The Calcutta Port (Amendment No. 1) Act, 1895.</i>
"	6 ^[1]	<i>An Act to further amend the Calcutta Port Act, 1890.</i>	<i>The Calcutta Port (Amendment No. 2) Act, 1895.</i>
1896	2 ^[2]	<i>An Act to further amend the Bengal Municipal Act, 1884.</i>	<i>The Bengal Municipal (Amendment) Act, 1896.</i>
1897	1 ^[1]	<i>An Act to amend the Public Demands Recovery Act, 1895.</i>	<i>The Bengal Public Demands Recovery (Amendment) Act, 1897.</i>
1899	2 ^[1]	<i>An Act to repeal the Civil Courts Amins Act, 1856, in Bengal.</i>	<i>The Bengal Civil Court Amins Act, 1899.</i>

THE SECOND SCHEDULE.

AMENDMENTS.

(See section 3.)

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part I.—Regulations of the Bengal Code.

1793	2 ^[3]	<i>The Bengal Land-revenue Regulation, 1793.</i>	<i>In section 18, after Collector insert or.</i>
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^[1] Printed in the Bengal Code, 1913-15.^[2] Printed in Vol. III of this Code.^[3] Printed ante.

(The Second Schedule.)

THE SECOND SCHEDULE—contd.

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part I.—Regulations of the Bengal Code—contd.

1793	2	The Bengal Land revenue Regulation, 1793—contd.	<p>In sections 36, 38, 39, 40, 42, 43 and 45, the words Governor General in Council wherever they occur, shall be read as if the words Local Government were substituted therefor.</p> <p>In section 40, the word his shall be read as if the word its were substituted therefor.</p> <p>In section 45, the word him shall be read as if the word it were substituted therefor.</p>
"	8 ⁽¹⁾	The Bengal Decennial Settlement Regulation, 1793.	<p>In section 20, the words Governor General in Council shall be read as if the words Local Government were substituted therefor.</p> <p>In section 21, the word Government shall be read as if the words the Local Government were substituted therefor.</p>
"	19 ⁽¹⁾	Revenue-free Lands (Non-Bādhāhī Grants)	<p>In sections 2, 3, 8 and 15, the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.</p> <p>In section 2, clause Fourth, the word him shall be read as if the word it were substituted therefor.</p> <p>In section 10, the words Governor General in Council, shall be read as if the words Governor General in Council or the Local Government were substituted therefor.</p> <p>In section 15, the word him, where it last occurs, shall be read as if the word it were substituted therefor.</p>
"	37 ⁽¹⁾	Revenue free Lands (Bādhāhī Grants).	<p>In sections 2, 3, 5 and 10 the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.</p> <p>In section 10, the word him, where it last occurs, shall be read as if the word it were substituted therefor.</p>

[Act 1]

The * * * Amending Act, 1903.
(The Second Schedule.)

THE SECOND SCHEDULE—contd.

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part I.—Regulations of the Bengal Code—contd.

1799	5 ^[1]	The Bengal Wills and Intestacy Regulation, 1799.	In section 7, the words Governor ^[2] General in Council shall be read as if the words Local Government were substituted therefor, and the word his, where it last occurs, shall be read as if the word its were substituted therefor.
1805	12 ^[1]	Land-revenue, Cuttack	In sections 18, 20, 26, 28 and 30, the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor. In section 18, clause Third, the word himself shall be read as if the word itself were substituted therefor. In section 18, clause Fifth, the word him shall be read as if the word it were substituted therefor. In section 22, for through the Board of Revenue for the information of the Governor General in Council substitute to the Board of Revenue.
"	13 ^[1]	Police, Cuttack	In section 3, the words the Governor General in Council, by an order in Council, shall be read as if the words the Local Government, by notification in the Calcutta Gazette, were substituted therefor. In section 4, clause Fourth, the words Governor General in Council shall be read as if the words Local Government were substituted therefor.
1810	19 ^[1]	Charitable Endowments, Public Buildings and Escheats.	In section 3, for those Boards substituting the Board of Revenue.

^[1] Printed ante.

^[2] The words, "Board of Revenue, or, in Assam to the Local Government for its" have been substituted for "Governor General in Council for his" by the Decentralization Act 1914 (4 of 1914), sec. 2, Sch., Part III post pp. 732 and 746.

(The Second Schedule.)

THE SECOND SCHEDULE—contd.

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part I.—Regulations of the Bengal Code—contd.

1810	10	Charitable Endowments, Public Buildings and Escheats—contd.	In section 4, for Boards substitute Board In section 8, for those Boards respectively substitute the Board. In section 9, the words Governor General in Council shall be read as if the words Local Government were substituted therefor. In section 12, for superior Boards substitute Board of Revenue, and for Boards substitute Board. In section 13, for superior Board substitute Board of Revenue.
1812	6 ⁽¹⁾	Land revenue &c.	In section 25, the words Governor-General in Council shall be read as if the words Local Government were substituted therefor.
"	11 ⁽¹⁾	The Bengal Foreign Immigrants Regulation, 1812.	At the end of section 5, for the said Regulation substitute this Regulation.
1814	20 ⁽¹⁾	Ghâtwalli Lands	In section 5, the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.
1816	5 ⁽¹⁾	Kanungos	In sections 5 and 11, the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor.
"	9 ⁽¹⁾	"	"
1817	17 ⁽¹⁾	Patwâris	In section 18, the words Governor General in Council shall be read as if the words Local Government were substituted therefor.

⁽¹⁾ Printed ask.⁽²⁾ The entry relating to Form No. 9 of 1816 (Fundastans) is omitted, as having been repealed by the Fundastans Act, 1903 (Form Act 1 of 1903).

(The Second Schedule.)

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4
<i>Part I.—Regulations of the Bengal Code—contd.</i>			
1819	1 ^[1]	Kánúngos and Patwáris . . .	In section 4, the words Governor General in Council, wherever they occur shall be read as if the words Local Government were substituted therefor. In section 4, clause Third, the word he shall be read as if the word it were substituted therefor.
"	2 ^[1]	Land-revenue Assessment (Resumed Lands).	In section 13, clause Third, and in section 14, the words Governor General in Council shall be read as if the words Local Government were substituted therefor. In section 21, clause Second, for Boards substitute Board.
"	8 ^[1]	The Bengal Patni Taluks Regulation, 1819.	In section 9, and in section 14, clause Second for notes of the Bank of Bengal substitute currency notes.
1820	1 ^[1]	The Bengal Patni Taluks Regulation, 1820.	In section 2, for the general Regulations substitute Law.
1821	4 ^[1]	Land-revenue (Assistant Collectors).	In section 7, for by the Regulations substitute by law, and for the Regulations already in force substitute the law for the time being in force. In section 8, the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor. In section 8, clause Fifth, for by the Regulations substitute by the laws, and for to the Regulations substitute to law.
1822	3 ^[2]	Board of Revenue . . .	In the title, for the words from and altering to the end, substitute of the Board of Revenue, and for controlling the distribution of powers between the members of the Board.

[¹] Printed *ante*.[²] Printed in the Bengal Code, Vol. 1, 1913-15.

(The Second Schedule.)

THE SECOND SCHEDULE—contd.

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part I.—Regulations of the Bengal Code—contd.

1882	3 ^[1]	Board of Revenue—contd.	<p>In section 4, clause <i>First</i>, for The said Boards shall each of them substitute The Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal shall.</p> <p>In section 5, clause <i>First</i>, for any of the said Boards substitute the said Board.</p> <p>In section 5, second proviso, and clause <i>Second</i>, for a Board substitute the Board.</p> <p>In section 5, clauses <i>Third</i> and <i>Sixth</i>, for Boards substitute Board.</p>
"	7 ^[2]	Land revenue Settlement	<p>In section 2, clause <i>Sixth</i>, for the words as aforesaid, where they first occur, substitute acknowledged as the proprietor or possessor of a permanent interest in the mahal for which he has engaged.</p> <p>In section 3, the words Governor-General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor, and the words by an Order in Council shall be read as if the words by notification in the local official Gazette were substituted therefor.</p> <p>In section 5, section 6, clause <i>Second</i>, section 7, clause <i>First</i>, section 8, section 9, clause <i>Third</i>, section 10, clause <i>First</i> and <i>Third</i>, and sections 16, 17 and 22, the words Governor-General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor, and in section 23, the words Governor-General in Council, in the second place where they occur, shall be read as if the words Local Government were substituted therefor.</p>

[¹] Printed in the Bengal Code, Vol. I, 1913-14.[²] Printed *extra*.

(The Second Schedule.)

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part I.—Regulations of the Bengal Code—contd.

1822	7 ^[1]	Land-revenue Settlement— <i>contd.</i>	<p>In section 9, clause <i>Third</i>, for Boards substitute Board, and for such a Board substitute that Board.</p> <p>In section 10, clause <i>Ninth</i>, section 16, proviso, and section 32, for the word Boards, wherever it occurs, substitute Board.</p> <p>In section 13, for Regulation substitute law.</p> <p>In section 20, clause <i>First</i>, the words the Government by an Order in Council shall be read as if the words the Local Government by notification in the local official Gazette were substituted therefor, the word he shall be read as if the word it were substituted therefor, and the word Government shall be read as if the words the Local Government were substituted therefor.</p> <p>In section 20, clause <i>Second</i>, the words Governor General in Council and the words Governor General shall be read as if the words Local Government were substituted therefor, and the words by an Order in Council shall be read as if the words by notification in the local official Gazette were substituted therefor.</p> <p>In section 23, clause <i>First</i>, for other Regulation substitute other law.</p> <p>In section 24, clause <i>Second</i>, for the existing Regulations substitute any other law.</p> <p>In section 26, for such suits substitute suits the cognizance of which is hereby vested in Collectors.</p>
1825	9 ^[1]	Land-revenue Settlement	<p>In section 3, section 4, section 5, clause <i>Eighth</i>, section 6 and section 8, the words Governor General in Council, wherever they occur shall be read as if the words Local</p>

(The Second Schedule.)

THE SECOND SCHEDULE—contd.

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part I.—Regulations of the Bengal Code—contd

1823	9 ^[1]	Land revenue Settlement—contd.	Government were substituted therefor. In section 3, after Bihar insert or. In section 6, the words an Order in Council shall be read as if the words notification in the local official Gazette were substituted therefor. In section 8, for the words rules respectively substitute section.
"	13 ^[1]	Land revenue Settlement . . .	In sections 2 and 5, the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor. In the first paragraph of section 2, the word he shall be read as if the word it were substituted therefor. In section 3, for Regulations substitute law
"	14 ^[1]	Revenue-free Lands . . .	In section 1 and section 3, clause Fifth, for Regulations 8 and substitute Regulation. In sections 2 and 3, the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor. In section 2, clause Fifth, the word his, where it last occurs, shall be read as if the word he were substituted therefor. In section 6, for Revenue Board substitute Board of Revenue, and for these Boards substitute that Board.

(The Second Schedule.)

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part I.—Regulations of the Bengal Code—concl'd.

1827	3 ^[1]	The Bengal Corruption and Extortion Regulation, 1827.	In section 5, for a Court of Circuit or the Nizamat Adalat substitute the Court.
"	5 ^[1]	The Bengal Attached Estates Management Regulation, 1827.	In section 3, for several Regulations substitute Regulation.
1828	[3 ^[1]	Land-revenue Assessment (Resumed Lands).	In section 10, clauses <i>Second</i> and <i>Third</i> , for Boards substitute Board. In section 13, clause <i>First</i> , the words Governor General in Council and the word he shall be read as if the words Local Government and the word it were respectively substituted therefor.
"	4 ^[1]	Land-revenue Settlement . . .	In section 2, clause <i>Fourth</i> , for aforesaid substitute vested with the powers of a Collector.
1833	9 ^[1]	Land-revenue (Settlement and Deputy Collectors).	In the title, for Regulations substitute Regulation, and in section 1, for those Regulations substitute that Regulation. In sections 12 and 13, for Boards substitute Board. In section 16, the words Governor General in Council shall be read as if the words Local Government were substituted therefor.

Part II.—Acts of the Governor General in Council.

1836	21 ^[1]	Districts'	The words the Governor General in Council by an Order in Council shall be read as if the words the Local Government, with the previous sanction of the Governor General in Council, by Notification in the local official Gazette were substituted therefor.
1859	10 ^[2]	Rent	In sections 136 and 151, for Boards substitute Board.

[¹] Printed *ante*.[²] Printed in the Bengal Code, Vol. I, 1913-15.

(The Second Schedule.)

THE SECOND SCHEDULE—contd.

Year	No.	Subject or short title.	Amendments.
1	2	3	4

Part II.—Acts of the Governor General in Council—contd.

1859	1 ^[1]	Land revenue Sales	In section 22, after post bills insert currency notes. In section 32, for section 23 substitute section 2 of the Bengal Land-revenue Sales Act, 1868. In section 37 for section 25 of this Act substitute section 2 of the Bengal Land revenue Sales Act, 1868
"	12 ^[2]	Calcutta Pilots	In sections 2 and 18, for the words Superintendent of Marine, wherever they occur, substitute Port Officer
1861	6 ^[3]	The Police Act, 1861	In section 34, after Impersonment insert with or without hard labour
1867	3 ^[4]	The Public Gambling Act, 1867	In the title, for the Central Provinces and British Burma substitute and the Central Provinces. In the preamble, for of the Chief Commissioner of the Central Pro- vinces and of the Chief Commis- sioner of British Burma substitute and of the Chief Commissioner of the Central Provinces In section 1, for the definitions of Lieutenant Governor and Chief Com- missioner substitute the following, namely:— "Lieutenant Governor" means the Lieutenant Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be "Chief Commissioner" means the Chief Commissioner of the Central Provinces or of the North West Frontier Pro- vince, as the case may be

[1] Printed note

[2] Printed in the General Code, 1913, p. 1

[3] Printed in the General Code, 1934-37, 1st. 1900 p. 278

[4] Act 3 of 1867 is not applicable to Bengal. It is printed in the General Code, 1913 and other Codes.

(The Second Schedule.)

THE SECOND SCHEDULE—contd.

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part II.—Acts of the Governor General in Council—contd.

1872	15 ^[1]	The Indian Christian Marriage Act, 1872.	In section 82, for certificates of marriages, and also for marriage certificates, substitute certificates for marriage. In Schedule II, after declaration insert or oath.
	* ^[2]	* * *	* * *
1879	14 ^[3]	The Hackney-Carriage Act, 1879.	In section 3, for The Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh; the Central Provinces, British Burma, substitute The Lieutenant-Governor of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioner of the Central Provinces.
„	18 ^[4]	The Legal Practitioners' Act, 1879.	In section 42 (added by the Legal Practitioners Act, 1884, section 9) before the words and figures Act I of 1846 insert So much of Chapter VI of Bombay Regulation 2 of 1827 as has not been repealed.
1881	13 ^[5]	The Fort William Act, 1881.	In section 1, for Army Discipline and Regulation Act, 1879, substitute Army Act. In section 5, for Presidency Magistrates Act, 1877, substitute Code of Criminal Procedure, 1898; and for the High Courts Criminal Procedure Act, 1875, section 147, substitute section 526 of that Code. In section 7, for Magistrates appointed under the Presidency Magistrates Act, 1877, substitute Presidency Magistrates.

[¹] Printed in the General Acts, 1868-78, Ed. 1909, p. 345.[²] The entry relating to Act 12 of 1878 (Laws, Punjab) was repealed by the Punjab Pre-emption Act, 1905 (Pun. Act 2 of 1905), and is omitted.[³] Act 14 of 1879 is not applicable to Bihar and Orissa. It is printed in the Ajmere Code, 1905, and other Codes.[⁴] Printed in the General Acts, 1879-86, Ed. 1909, p. 19.[⁵] Printed in the Bengal Code, 1913.

(The Second Schedule.)

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part II.—Acts of the Governor General in Council—contd.

1889	[¹]	The Coroners (Madras) Act, 1889.	In the preamble and in section 4, sub-section (2), as amended by the Repealing and Amending Act, 1921, for the Code of Criminal Procedure, 1852, substitute the Code of Criminal Procedure, 1893.
1897	[²] 10[³]	The General Clauses Act, 1897	<p>In section 3, clauses (5), (6) (29), and (35) after under insert the Indian Councils Act, 1861, or.</p> <p>In section 3, after clause 8 insert the following:—</p> <p>(K) "Burma Act" shall mean an Act made by the Lieutenant Governor of Burma in Council under the Indian Councils Acts, 1861 and 1892.</p> <p>In section 3, after clause (11), insert the following:—</p> <p>(11a) "Punjab Act" shall mean an Act made by the Lieutenant Governor of the Punjab in Council under the Indian Councils Acts, 1861 and 1892.</p> <p>In section 3, after clause (58), insert the following:—</p> <p>(58a) "United Provinces Act" shall mean an Act made by the Lieutenant Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1891 and 1892.</p>

[¹] Printed in the General Code, 1912.[²] The entry relating to Act 13 of 1859 (the Cantonments Act, 1859), is omitted, as having been repealed by the Cantonments Act, 1910 (15 of 1910).[³] Printed in the General Acts, 1897, c. 1, Ed. 1909, p. 271.

(The Second Schedule.)

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part II.—Acts of the Governor General in Council—concl'd.

1897	10	The General Clauses Act, 1897 — <i>contd.</i>	<p>In section 20, <i>before the word order, in each of the places in which it occurs, insert notification.</i></p> <p>In section 21, <i>for make substitute issue notifications, between the words any and orders insert notifications, and for made substitute issued.</i></p> <p>In section 24, <i>before the word order, in each of the places in which it occurs, insert appointment, notification; and before the word issued, in each of the places in which it occurs, insert made or.</i></p>
898	5 ^[1]	The Code of Criminal Procedure, 1898.	<p>In section 260, sub-section (1), clause (i), <i>after 451 insert 453, 454.</i></p> <p>In section 555, <i>for 553 substitute 554.</i></p> <p>In the second schedule, column 5, <i>against section 195 for Bailable substitute Not bailable.</i></p> <p>In the second schedule, column 8, <i>against section 506 for Ditto substitute Presidency Magistrate or Magistrate of the first or second class.</i></p> <p>In the heading to the fifth schedule, <i>for 554 substitute 555.</i></p> <p>In the fifth schedule, Form IV, <i>for within days from this date substitute on the day of</i></p> <p>In the fifth schedule, Forms XIII and XIV, <i>for the passage from comply where it occurs for the second time to released, substitute be lawfully ordered to be released.</i></p>
1900	3 ^[2]	The Prisoners Act, 1900	<p>For section 29 <i>substitute the following:—</i></p> <p>29. (1) The Governor-General in Council may, by general or special order, provide for the removal of any prisoner confined in a prison—</p>

[¹] Printed in General Acts, 1898-03, Ed. 1909, p. 38.

[²] Printed in General Acts, 1898-03, Ed. 1909, p. 488.

(The Second Schedule.)

THE SECOND SCHEDULE—*contd.*

Year.	No.	Subject or short title.	Amendments.
1	2	3	4

Part II.—Acts of the Governor General in Council—concld.

1900	3	The Prisoners Act, 1900— <i>concld.</i>	<p>(a) under sentence of do</p> <p>(b) under, or in lieu of, a sentence of imprisonment or transportation, or</p> <p>(c) in default of payment of a fine, or</p> <p>(d) in default of giving security for keeping the peace or for maintaining good behaviour,</p> <p>to any other prison in British India.</p> <p>(2) The Local Government and (subject to its orders and under its control) the Inspector General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province</p>
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Part III.—Bengal Acts.

(1)	.	.	.
1865	7(1)	Slaughter houses and Meat-markets.	In section 1, for the jurisdiction of the Municipal Commissioners of the suburbs of the Town of Calcutta appointed under the provisions of Act 3 of 1864 passed by the Lieutenant Governor of Bengal in Council (the <i>Indian Municipal Improvement Act</i>), substitute any limits to which this section has hitherto been, or may hereafter be, extended by notification under section 9.
1865	8(1)	The Calcutta Police Act, 1865	In section 25, for each officer or substitute officer of the Police Force.

[1] The entry relating to Bengal Act 6 of 1862 is omitted, as having been repealed by the

ACT 1 of 1911.

[THE OPIUM (AMENDMENT) ACT, 1911.][¹]

(5th January, 1911.)

13 of 1857.

An Act further to amend the Opium Act, 1857.[²]

Whereas it is expedient further to amend the Opium Act, 1857:[³]
It is hereby enacted as follows:—

1. This Act may be called the Opium (Amendment) Act, 1911.
- 13 of 1857. 2. In section 3 of the Opium Act, 1857,[²] for the words "in A
Calcutta" the words "of the United Provinces of Agra and Oudh"
shall be substituted.
3. Every order or direction issued, regulation made, sanction given or other thing lawfully done under the said Act by the Board of Revenue in Calcutta shall, after the commencement of this Act, be deemed to have been issued, made, given or done by the Board of Revenue of the United Provinces of Agra and Oudh.
4. Any order or direction, regulation, sanction or other thing purporting to have been issued, made, given or done under the said Act by the Board of Revenue of the United Provinces of Agra and Oudh prior to the commencement of this Act is hereby ratified and confirmed.

[¹] LEGISLATIVE PAPERS—For Proceedings in Council, see Gazette of India, 1911, Part VI, p. 35.

LOCAL EXTENT—The local extent of this Act is the same as that of Act 13 of 1857, as to which see foot note on p. 381, ante.

[²] Printed ante, p. 331.

ACT 16 OF 1911.

[THE BENGAL, AGRA AND ASSAM CIVIL COURTS (AMENDMENT) ACT,
1911.][¹]

(18th September, 1911.)

An Act further to amend the Bengal, North-Western
Provinces and Assam Civil Courts Act, 1887.[²]

Whereas it is expedient further to amend the Bengal, North-Western
Provinces and Assam Civil Courts Act, 1887;[²] It is hereby enacted
as follows:—

1. This Act may be called the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911.

2. In sub-section (1) of section 1 of the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887,[²] for the words "North-Western Provinces" the word "Agra" shall be substituted. Amendment of section (1), Act 12, 1887.

3. In sub-section (1) of section 8 of the said Act, the words "and with the previous sanction of the Governor General in Council" are hereby repealed. Amendment of section 8 (1), Act 12, 1887.

4. In section 25 of the said Act, for the words "one hundred rupees" the words "two hundred and fifty rupees" shall be substituted. Amendment of section 25, Act 12, 1887.

[¹] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1911, Part V, p. 113; for Proceedings in Council, see *ibid*, Part VI, pp. 631, 651.

LOCAL EXTENT.—The local extent of this Act is the same as that of Act 12 of 1887, as to which see foot note [¹] on p. 575, *ante*.

[²] Printed *ante*, p. 575.

(THE BENGAL, BIHAR AND ORISSA AND ASSAM LAWS ACT, 1912) [1]

(26th March, 1912.)

An Act to make certain provisions regarding the application of the law in force in [the Presidency of Fort William in Bengal,] the Province of Bihar and Orissa [and the Province of Assam].

[Whereas a Governor and an Executive Council have been appointed^[2] for the Presidency of Fort William in Bengal;

And whereas, by Proclamation published under Notification No. 290,^[3] dated the twenty-second day of March, 1912, the Governor General in Council, with the sanction of His Majesty, has been pleased to declare and appoint that, on and from the first day of April, 1912, the territory mentioned in Schedule A shall be and continue subject to the said Presidency of Fort William in Bengal,]

And whereas, by Proclamation published under Notification No. 289, dated the twenty-second day of March, 1912, the Governor General, with the sanction of His Majesty, has been pleased to constitute the territory mentioned in Schedule B to be, for the purposes of the Indian Councils Act, 1861,^[4] a Province to which the provisions of that Act touching the making of Laws and Regulations for the peace and good government of the Presidencies of Fort St. George and Bombay shall be applicable, and to direct that the said Province shall be called the Province of Bihar and Orissa, and further to appoint a Lieutenant-Governor of that Province;

[And whereas, by Proclamation published under Notification No. 291, dated the twenty-second day of March, 1912, the Governor General in Council, with the sanction and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule C, which was formerly included within the Province of Eastern Bengal and Assam,

[1] *Enactive Part*—For precedents in *Code of India, 1912*, Part VI, pp. 594 to 600.

Local Extent—This Act extends to the Presidency of Fort William in Bengal, the Province of Bihar and Orissa and the Province of Assam—the title and preamble were in A, B and C, pp. 725 and 727.

[2] For proclamation and notification of appointments see parts I and II of the *Code of India*, a *Table of Contents* of the 1st April 1912.

[3] Published on p. 2 of the *Code of India*, dated the 26th March 1912.

[4] Inserted in the *Code of India* as Act No. 1 of 1861.

(Secs. 1-5.)

and to form the same into a Chief Commissionership, to be called the Chief Commissionership of Assam, and further to appoint a Chief Commissioner therefor;]

And whereas it is expedient to make certain provisions regarding the application of the law in force in the territories affected by the said Proclamations;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal, Bihar and Orissa and Assam Laws Act, 1912; and

(2) It shall come into force on the first day of April, 1912.

2. The Proclamations referred to in the preamble shall not be deemed to have effected any change in the territorial application of any enactment, notwithstanding that such enactment may be expressed to apply or extend to the territories for the time being under a particular administration.

3. All enactments made by any authority in British India, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under such enactments, which, immediately before the commencement of this Act, were in force in, or prescribed for, any of the territory mentioned in [Schedule A,] Schedule B [or Schedule C], shall, in their application to that territory, be construed as if references therein to the authorities, territory or Gazettes mentioned in column 1 of Schedule D were references to the authorities, territory or Gazettes respectively mentioned or referred to opposite thereto in column 2 of that Schedule:

[Provided that the Governor General in Council may, by notification in the Gazette of India, direct that any function of the Chief Commissioner of Assam under any such enactment, notification, order, scheme, rule, form or by-law shall be discharged by the Governor General in Council and not by the said Chief Commissioner.]

4. (Constitution of Board of Revenue in Bihar and Orissa.) Rep. 3 of 188 by the Bihar and Orissa Board of Revenue Act, 1913 (B. and O. Act 1 of 44 of 18 1913), s. 7, Sch. I., published in Vol. II, of this Code.

5. For the purpose of facilitating the application to the territory, or any part thereof, mentioned in [Schedule A,] Schedule B [or Schedule C] of any enactment passed before the commencement of this Act, or of any notification, order, scheme, rule, form or by-law made under any such enactment,—

(a) any Court may, subject to the other provisions of this Act, construe the enactment, notification, order, scheme, rule,

(Secs. 6-8. Schedule A.)

form or by-law with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court; and

- (b) the Local Government may, by notification in the local official Gazette, direct by what officer any authority or power shall be exerciseable; and any such notification shall have effect as if enacted in this Act.

6. Nothing in this Act shall affect any proceeding which, at the commencement thereof, is pending in or in respect of any of the territory mentioned in [Schedule A.] Schedule B [or Schedule C]; and every such proceeding shall be continued as if this Act had not been passed.

7. The enactments specified in Schedule E are hereby amended to the extent and in the manner specified in the fourth column thereof.

8. The Bengal and Assam Laws Act, 1905, is hereby repealed.

SCHEDULE A.

(See sections 3, 5 and 6.)

THE PRESIDENCY OF FORT WILLIAM IN BENGAL.

Part I.

The Chittagong Division, comprising the districts of Chittagong, the Chittagong Hill-tracts, Noakhali and Tippera;

the Dacca Division, comprising the districts of Bakarganj, Dacca, Faridpur and Mymensingh;

the Rajshahi Division, comprising the districts of Bogra, Dinajpur, Jalpaiguri, Malda, Pabna, Rajshahi and Rangpur.

Part II.

The Burdwan Division, comprising the districts of Bankura, Burdwan, Hooghly, Howrah and Mulnapur;

the Presidency Division, comprising the town of Calcutta and the districts of Jessore, Khulna, Murshidabad, Nadia and the 24 Parganas; and

the district of Darjeeling.

(Schedules B, C, D.)

SCHEDULE B.

The Province of Bihar and Orissa.

The districts of Bhagalpur, Monghyr, Purnea and the Southal Parganas, in the Bhagalpur Division;

the Patna Division, comprising the districts of Gaya, Patna and Shahabad;

the Tirhut Division, comprising the districts of Champaran, Darbhanga, Muzaffarpur and Saran;

the Chota Nagpur Division, comprising the districts of Hazaribagh, Manbhum, Palamau, Ranchi and Singhbhum; and

the Orissa Division, comprising the districts of Angul, Balasore, Cuttack, Puri and Sambalpur.]

SCHEDULE C.

The Province of Assam.

The Assam Valley Districts Division, comprising the districts of Darrang, Garo Hills, Goalpara, Kamrup, Lakhimpur, Nowgong and Sibsagar; and

the Surma Valley and Hill Districts Division, comprising the districts of Cachar, Khasi and Jaintia Hills, Lushai Hills; Naga Hills and Sylhet.]

SCHEDULE D.

(See section 3.)

Part I.—Construction of enactments, etc., in force in the territory mentioned in Schedule A (the Presidency of Fort William in Bengal).

1	2
References.	Constructions.
1. <i>The Local Government of Bengal</i>	} <i>The Governor in Council of Fort William in Bengal.</i>
2. <i>The Local Government of Eastern Bengal and Assam.</i>	

(Schedule D.)

SCHEDULE D—contd.

Part I.—Construction of enactments, etc., in force in the territory mentioned in Schedule A (the Presidency of Fort William in Bengal.)

1	2
Reference.	Constructions.
3. The Board of Revenue for Eastern Bengal and Assam.	The Board of Revenue for Bengal.
4. The Chief Controlling Revenue Authority .	
5. The Chief Revenue Authority	
6. All officers and official bodies not mentioned in the foregoing clauses 2 to 5 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Part I of Schedule A.	(a) The respective officers and official bodies who immediately before the commencement of this Act exercised similar functions in the Province of Bengal; or (b) such other officers or official bodies, respectively, as the Governor in Council of Fort William in Bengal may, by notification in the local official Gazette, direct.
7. The local official Gazette (English or Vernacular, as the case may be) of the Government of Eastern Bengal and Assam.	The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal.

Part II.—Construction of enactments, etc., in force in the territory mentioned in Schedule B (the Province of Bihar and Orissa).

1	2
Reference.	Constructions.
8. The Local Government of Bengal	The Local Government of Bihar and Orissa.
9. The Local Government of the Central Province.	
10. The Board of Revenue for Bengal	The Board of Revenue for Bihar and Orissa.
11. The Chief Controlling Revenue Authority .	
12. The Chief Revenue Authority	
13. The Court of Wards of the Central Province	
14. The Superintendent of Government Works in the Central Province.	

(Schedule D.)

SCHEDULE D—*contd.*

Part II.—Construction of enactments, etc., in force in the territory mentioned in Schedule B (the Province of Bihar and Orissa).

1	2
References.	Constructions.
15. The Judicial Commissioner of the Central Provinces.	The High Court of Judicature at Fort William in Bengal.
16. All officers and official bodies not mentioned in the foregoing clauses 8 to 15 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Bengal generally, inclusive of the territory mentioned in Schedule B.	Such officers or official bodies, respectively, as the Local Government may, by notification in the local official Gazette, direct.
17. The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Chief Commissionership of the Central Provinces.	The local official Gazette (English or Vernacular, as the case may be) of the Government of Bihar and Orissa.]

Part III.—Construction of enactments, etc., in force in the territory mentioned in Schedule C (the Province of Assam).

1	2
References.	Constructions.
18. The Local Government of Bengal . . .	The Chief Commissioner of Assam.
19. The Local Government of Eastern Bengal and Assam.	
20. The Board of Revenue for Bengal . . .	
21. The Board of Revenue for Eastern Bengal and Assam.	
22. The Chief Controlling Revenue-Authority . . .	
23. The Chief Revenue-Authority	Such officers or official bodies, respectively, as the Chief Commissioner of Assam may, by notification in the local official Gazette, direct.
24. All officers and official bodies not mentioned in the foregoing clauses 18 to 23 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Schedule C.	

(Schedules D and E.)

SCHEDULE D—concl'd.

Part III.—Construction of enactments, etc., in force in the territory mentioned in Schedule C (the Province of Assam).

1	2
References.	Constructions.
25. The Chief Commissionership of Assam	The territory mentioned in Schedule C.
26. The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Government of Eastern Bengal and Assam.	The local official Gazette (English or Vernacular, as the case may be) of the Chief Commissionership of Assam.

SCHEDULE E.

(See section 7.)

1	2	3	4
Year.	No.	Short title.	Amendments
1877	I	The Specific Relief Act, 1877.	In section 45 (1), (1) for the words "the Lieutenant Governor of Bengal" substitute the words "the Governor in Council of Fort William in Bengal."
1882	XV	The Presidency Small Cause Courts Act, 1882	In section 81 (1) for the words "and Bombay" substitute the words "Bombay and Fort William in Bengal" and omit the words "the Lieutenant Governor of Bengal."
1903	X	The Factories Memorial Act, 1903	In section 2 (1) (1) (1) for the words "the Lieutenant Governor of Bengal" substitute the words "the Governor of Fort William in Bengal."
1910	X	The Indian Museum Act, 1910	In section 2 (1) (1) (1) for the words "the Lieutenant Governor of Bengal" substitute the words "the Governor of Fort William in Bengal."

(1) Printed in the General Acts, 1906-7, Pt. 127, p. 271.

(2) Printed in the General Acts, 1878-86, Pt. 127, p. 271.

(3) Printed in the General Acts, 1883-93, Pt. 127, p. 271.

(4) Printed in the Bengal Code, 1913-15.

ACT No. IV of 1914.

(THE DECENTRALIZATION ACT, 1914.)^[1]

(24th February, 1914.)

An Act to decentralize and otherwise to facilitate the administration of certain enactments.

Whereas it is expedient to decentralize and otherwise to facilitate the administration of certain enactments; It is hereby enacted as follows:—

1. This Act may be called the Decentralization Act, 1914.

Short title.

2. The enactments specified in the third column of the Schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

Amendment of certain enactments.

3. Any appointment, notification, order, scheme, rule, form or bye-law made or issued by an authority for the making or issuing of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by an appointment, notification, order, scheme, rule, form or bye-law made or issued by such new authority.

Saving of orders, etc., issued by previous authorities.

THE SCHEDULE.

PART I.

Acts of the Governor General of India in Council.

Year.	No.	Short title.	Amendments.
1859	XI	The Bengal Land Revenue Sales Act, 1859	1. In section 13 for the words "Board of Revenue" substitute the word "Commissioners" and for the word "they" the word "he."

[1] LEGISLATIVE PAPERS.—For Statement of Object and Reasons, see Gazette of India, 1914, Pt. VI, p. 172, and for Proceedings in Council, see ibid., Pt. V, pp. 41-50.

LOCAL EXTENT.—Since this Act has no "local extent" clause, it must (so far as applicable) be taken to extend to the whole of British India. It is printed here as it was enacted after the last publication of the General Act, Ed. 4th 1902.

(The Schedule.)

THE SCHEDULE.

PART I.

Acts of the Governor General of India in Council.

Year.	No.	Short title.	Amendments.
1859	XI	The Bengal Land Revenue Sales Act, 1859.	<p>2. In section 20 omit the words "if they see cause may recommend to the Local Government to annul the sale; and the Local Government in any such case."</p> <p>3. In section 32 for the word "Government," where that word occurs for the first time, substitute the words "the Board of Revenue."</p> <p>4. In section 49 omit the words "or the Local Government."</p>
"	XII	The Calcutta Pilots Act, 1859.	In section 17 omit the words "with the sanction of the Governor General in Council" and the words "and sanctioned."
"	XXIV	The Madras District Police Act, 1859.	<p>1. In section 5 omit the words "and who shall receive such salary as the Governor-General of India in Council shall allow."</p> <p>2. In section 8 for the words "with the sanction" substitute the words "subject to the control."</p>
1861	V	The Police Act, 1861	In section 2 for the word "sanction" substitute the word "control."
1863	XXIII	The Waste-lands (Claims) Act, 1863.	<p>1. In section 5 omit the words "Board of Revenue or other" and insert after the word "authority," where that word occurs for the first time, the words "to which he is immediately subordinate" and omit the words "Board or other," wherever these words occur in the section.</p> <p>2. In sections 4 and 10 omit the words "by the Local Government."</p> <p>3. After section 23 insert the following section:—</p> <p>"23-A. In a province for which there is a Board of Revenue or a Financial Commissioner, the powers and duties of the Local Government under sections 6, 10, 22 and 23 may be exercised by such Board or Financial Commissioner, as the case may be."</p>

(The Schedule.)

THE SCHEDULE.

PART I—contd.

Acts of the Governor General of India in Council.

Year.	No.	Short title.	Amendments.
1872	IV	The Punjab Laws Act, 1872.	<p>1 In section 39C for the words "with the previous sanction" substitute the words "subject to the control."</p> <p>2 In section 50A for the word "No" substitute the word "All" and for the word "valid" substitute the words "subject to the control of the Governor General in Council and no such rules shall be valid" and omit clause (c)</p>
1873	III	The ^a Madras Civil Courts Act, 1873.	<p>1 In sections 3 and 4 omit the provisions</p> <p>2 In section 6 omit the words "or whenever the Governor General in Council has sanctioned an addition to the number of District Judges or Subordinate Judges under the provisions of section 3 or section 4"</p> <p>3 In section 7 omit the words "or whenever the Governor General in Council has sanctioned an addition to the number of District Magistrate under the provisions of section 4"</p> <p>4 For section 24A the following section shall be substituted:—</p> <p>"24A. (1) The High Court may transfer all or any of the judicial officers of any Civil Court subject to its superintendence to any other such Court."</p> <p>"(2) The District Judge may transfer all or any of the judicial officers of any Civil Court under his control to any other such Court."</p> <p>5. In section 25 for the words "Local Government" substitute the words "High Court" and omit the words "except so far as the recommendation of the High Court as to any amendment not involving"</p>

(The Schedule.)

THE SCHEDULE.

PART I.—*contd.**Acts of the Governor General of India in Council.*

Year.	No.	Short title.	Amendments.
1873	VIII	<i>The Northern India Canal and Drainage Act, 1873.</i>	<ol style="list-style-type: none"> 1. In section 65 omit the words "with the previous sanction of the Governor General in Council." 2. In section 75 for the words "with the previous sanction" substitute the words "subject to the control" and for the words "with the like sanction" substitute the words "subject to the like control."
1874	IX	<i>The European Vagrancy Act, 1874.</i>	<ol style="list-style-type: none"> 1. In section 11 omit the words "with the previous sanction of the Governor General in Council." 2. In section 14 for the words "with the previous sanction" substitute the words "subject to the control." 3. In section 36 for the words "the Governor General in Council" substitute the words "the Local Government subject to the control of the Governor General in Council" and for the words "Gazette of India," substitute the words "local official Gazette."
1876	VI	<i>The Chota Nagpur Incumbered Estates Act, 1876.</i>	In section 19 after the word "may," where that word occurs for the first time, insert the words "subject to the control of the Governor General in Council" and omit the words "approved by the Governor-General in Council and."
"	XIX	<i>The Dramatic Performances Act, 1876.</i>	In section 10 omit the words "with the sanction of the Governor General in Council."
1878	VIII	<i>The Sea Customs Act, 1878.</i>	<ol style="list-style-type: none"> 1. In section 9 omit the words "with the sanction of the Local Government." 2. In sections 11, 12 and 14 after the words "The Local Government" insert the words "or, if so authorised by the Local Government, the Chief Customs-authority." 3. In sections 19A, 53, 75, 76, 79, 83, 85, 96, 116, 130, 144, 147, 148, 151 proviso, and 182, for the words "Local Government," wherever these words occur, substitute the words "Chief Customs-authority."

(The Schedule.)

THE SCHEDULE.

PART I—contd.

Acts of the Governor General of India in Council.

Year.	No.	Short title.	Amendments.
1878	VIII	The Sea Customs Act, 1878— contd.	<p>4. In sections 15, 16, 17, 20, 25, 50, 63, 76, 80, 101, 103, 106, 107, 113, 117, 122, 137, 162, 179 and 199, for the words "Chief Customs authority" substitute the words "Chief Customs Officer" and for the word "its" when used in relation to the Chief Customs authority, substitute the word "his."</p> <p>5. In the proviso to section 42, after the words "Chief Customs authority" insert the words "or the Chief Customs Officer" and to the said proviso add the following words, namely, "Provided further that the Chief Customs Officer shall not extend the term to a period exceeding three years."</p> <p>6. In sections 101 and 12, for the words "Chief Customs authority or such officer of Customs as such authority from time to time appoints in this behalf," substitute the words "Chief Customs Officer."</p> <p>7. In section 107, for the word "authority" substitute the word "officer."</p> <p>8. In section 129, for the words "Governor-General in Council" substitute the words "Local Government"; and for the words "Gazette of India" substitute the words "local official gazette."</p> <p>9. In section 131, for the words "with the previous sanction" substitute the words "subject to the control."</p> <p>10. In section 164, for the words "the Chief Customs authority may" substitute the words "the Chief Customs Officer may grant or"; for the words "the Chief Customs authority" and "such authority," wherever those words occur elsewhere in the section, substitute the words "the Chief Customs Officer"; and for the words "was authorised" substitute the words "was made or was used."</p>

(The Schedule.)

THE SCHEDULE.

PART I.—*contd.**Acts of the Governor General of India in Council.*

Year.	No.	Short title.	Amendments.
1878	VIII	The Sea Customs Act, 1878— <i>concl'd.</i>	<p>11. In the schedule in section 167 in entries 6 and 7, for the words "Chief Customs-authority" substitute the words "Chief Customs Officer" and in entries 13 and 54 for the words "Local Government" the words "Chief Customs-authority."</p> <p>12. In section 206, for the words "Customs Collector shall, with the sanction of the Chief Customs-authority" substitute the words "Chief Customs Officer or, the Customs Collector, with the sanction of the Chief Customs Officer, shall" and add the following proviso, namely:—</p> <p style="padding-left: 40px;">"Provided that compensation exceeding Rs. 250 shall be paid with the sanction of the Chief Customs-authority."</p>
1879	III	The Destruction of Records Act, 1879.	In section 5 omit the words "and sanctioned by the Governor General in Council."
"	XIII	The Qudh Civil Courts Act, 1879.	<p>1. In section 7 omit the words "and with the previous sanction of the Governor General in Council."</p> <p>2. In section 17 for the words "Local Government" substitute the words "Judicial Commissioner"; and omit the words "on the recommendation of the Judicial Commissioner."</p> <p>3. In section 24 for the words "Local Government" substitute the words "Judicial Commissioner," and for the word "it," wherever it occurs, substitute the word "he."</p>
"	XIV	The Hackney-carriage Act, 1879.	1. In section 3 for the words "Local Government," wherever these words occur, substitute the word "Commissioner."

(The Schedule.)

THE SCHEDULE.

PART I—contd.

Acts of the Governor General of India in Council.

Year.	No.	Short title.	Amendments.
1879	XIV	The Hackney-carriage Act, 1879— <i>contd.</i>	2. In section 4 omit the words "subject to the control of the Governor General in Council"
"	XVI	The Transport of Salt Act, 1879.	3. In section 5 for the words "Local Government," where these words occur for the first time, substitute the word "Commissioner."
"	XVI	The Transport of Salt Act, 1879.	In section 4 for the words "Governor of Bombay in Council" substitute the words "Chief Customs-authority"
1880	V	The Burma Boundaries Act, 1880.	In sections 24 and 32 for the words "Chief Commissioner" substitute the words "Financial Commissioner subject to the control of the Local Government."
"	XIII	The Vaccination Act, 1880.	1. In section 2, clause (7), omit the words "by the Local Government."
"	XIII	The Vaccination Act, 1880.	2. In sections 4 and 5 for the words "with the previous sanction" substitute the words "subject to the control"
"	XIII	The Vaccination Act, 1880.	3. In sections 8 and 12 for the words "Local Government," wherever they occur in those sections, substitute the word "Commissioner"; and in section 19 before the word "Commissioner," where that word occurs for the second time, insert the word "medical."
1881	XXVI	The Negotiable Instruments Act, 1881.	1. In the definition of "exchange bill," in section 2 for the words "Governor General in Council" substitute the words "Local Government."
"	XXVI	The Negotiable Instruments Act, 1881.	2. In sections 174 and 175 for the words "Governor General in Council" substitute the words "Local Government."
1882	I	The Central Provinces Local Self-government Act, 1882.	In section 22 for the words "with the previous sanction of the Governor General in Council"

(The Schedule.)

THE SCHEDULE.

PART I—contd.

Acts of the Governor General of India in Council.

Year.	No.	Short title.	Amendments.
1883	XIX	The Land Improvement Loans Act, 1883.	<p>1. In section 10 omit the words "subject to the control of the Governor General in Council."</p> <p>2. After section 11 add the following section:—</p> <p>"12. The powers conferred on a Local Government by sections 4, 5 (1) and 10 may, in a province for which there is a Board of Revenue or a Financial Commissioner, be exercised in the like manner and subject to the like conditions by such Board or Financial Commissioner, as the case may be: Provided that rules made by a Board of Revenue or Financial Commissioner shall be subject to the control of the Local Government."</p>
"	XX	The Punjab District Boards Act, 1883.	<p>1. In section 13 for the words "the local Government," wherever they occur, substitute the word "Commissioner."</p> <p>2. In section 36, sub-section (2), after the words "as the" wherever they occur, insert the words "Local Government, subject to the control of the"</p> <p>3. In section 51 omit the words "with the previous approval of the Governor General in Council" and the proviso.</p> <p>4. In section 55 omit the letter and words "(b) make rules regulating the powers of district boards to make, vary and dispose of investments" from clause (1) and insert the letter and words "(b) regulating the powers of district boards to make, vary and dispose of investments" under clause (2) after the words "make rules for;" and to the section, after the words "have been notified" add the words "Rules made under clause (2) (b) shall be subject to the control of the Governor General in Council."</p>

(The Schedule.)

THE SCHEDULE.

PART I—contd.

Acts of the Governor General of India in Council.

Year	No.	Short title	Amendments.
1894	XII	The Agriculturists' Loans Act, 1894.	In section 4, sub-section (1), omit the words "subject to the control of the Governor General in Council," and after the words "Local Government" insert the words "or, in a province for which there is a Board of Revenue or Financial Commissioner, such Board or Financial Commissioner, subject to the control of the Local Government."
1896	II	The Indian Income tax Act, 1896.	Add a new section, namely:— "50A. The Local Government may, by notification in the Local Government Gazette, delegate all or any of the powers conferred on it by sections 16 (3), 17 (1) (a), (2), (c), 30 (2), (4), 31 (3) and 40 to the Chief Revenue authority, by which expression is meant the Board of Revenue or the Financial Commissioner in those provinces where those authorities exist and in any other case such authority as the Local Government may declare to be the Chief Revenue authority."
1897	IX	The Provincial Small Cause Courts Act, 1897	In sections 5 and 8 omit the words "with the previous sanction of the Governor General in Council."
"	XII	The Bengal, Agra and Assam Civil Courts Act, 1897.	1. For section 4 substitute the following section, namely:— "4. The Local Government may, by notification in the Local Government Gazette, delegate all or any of the powers conferred on it by sections 16 (3), 17 (1) (a), (2), (c), 30 (2), (4), 31 (3) and 40 to the Chief Revenue authority, by which expression is meant the Board of Revenue or the Financial Commissioner in those provinces where those authorities exist and in any other case such authority as the Local Government may declare to be the Chief Revenue authority."

(The Schedule.)

THE SCHEDULE.

PART I—*contd.**Acts of the Governor General of India in-Council.*

Year.	No.	Short title.	Amendments.
1887	XII	The Bengal, Agra and Assam Civil Courts Act, 1887— <i>contd.</i>	<p>3. In section 6 (1) for the words "the Governor-General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges" substitute the words "an increase in the number of District or Subordinate Judges has been made under the provisions of section 4."</p> <p>4. In section 7 (2) for the words "with the previous sanction" substitute the words "subject to the control."</p> <p>5. To section 19, sub-section (2), and to sections 25 and 34 (1), add the following proviso, namely:— "Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section."</p>
"	XVI	The Punjab Tenancy Act, 1887.	<p>1. In sections 61 (3) and 88 (1) omit the words "with the previous sanction of the Governor General in Council."</p> <p>2. In section 106, sub-section (3), for the words "not take effect until they have been sanctioned by" substitute the words "be made subject to the control of."</p>
"	XVII	The Punjab Land Revenue Act, 1887.	<p>1. In section 7, sub-section (1), omit the words "with the previous sanction of the Governor General in Council."</p> <p>2. In section 118 (2), omit the words "to the Commissioner" and for the word "Commissioner," where it occurs for the second time, substitute the words "authority to whom the appeal has been preferred."</p> <p>3. In section 155, sub-section (3), omit the following:—"and rules under clause (c) of sub-section (1) shall not take effect until they have also been confirmed by the Governor General in Council"</p>

(The Schedule.)

THE SCHEDULE.

PART I—contd.

Acts of the Governor General of India in Council.

Year.	No.	Short title	Amendments.
1859	XVIII	<i>The Burma Financial Commissioner's Act, 1859.</i>	<i>In section 2, sub-section (1), omit the words "with the previous sanction of the Governor General in Council"</i>
1890	I	<i>The Revenue Recovery Act, 1890.</i>	<i>In section 3, sub-section (2), after the word "it" insert the words "or by any officer to whom such Collector may, by order in writing, delegate this duty."</i>
1892	VII	<i>The Madras City Civil Court Act, 1892.</i>	<i>In section 10 omit the words "and the sanction of the Governor General in Council"</i>
1891		<i>The Land Acquisition Act, 1891</i>	<i>In section 55, sub-section (1), after the word "shall" insert the words "subject to the control of Governor General in Council" and in sub-section (3) of the same section omit the words "when sanctioned by the Governor General in Council"</i>
1895	XIV	<i>The Pilgrim Ships Act, 1895.</i>	<i>In section 59, sub-section (2), omit the words "with the previous sanction of the Governor General in Council"</i>
1896	II	<i>The Cotton Duties Act, 1896.</i>	<p>1. In sections 12 and 13 for the words "Chief Customs authority," wherever they occur in those sections substitute the word "Collector"</p> <p>2. In section 16, sub-section (1), for the words "Local Government," wherever they occur, substitute the words "Chief Customs authority"</p>
"	VIII	<i>The Inland Bonded Warehouses Act, 1896.</i>	<i>In section 7 omit the words "with the previous sanction of the Governor General in Council"</i>
1897	VIII	<i>The Reformatory Schools Act, 1897.</i>	<i>In section 5 omit the words "with the previous sanction of the Governor General in Council"</i>
1898	XIII	<i>The Burma Laws Act, 1898</i>	<i>In section 3 omit the words "and the previous sanction of the Governor General in Council" and the words "of section 3 thereof"</i>

(The Schedule.)

THE SCHEDULE.

PART I—contd.

Acts of the Governor General of India in Council.

Year.	No.	Short title.	Amendments.
1899	II	The Indian Stamp Act, 1899.	<p>1. In section 39, sub-section (1), omit the words "upon application made to him in this behalf or, if no application is made, with the consent of the Chief Controlling Revenue-authority."</p> <p>2. In section 49 for the words "Governor General in Council" substitute the words "Local Government."</p> <p>3. In section 51 after the word "Revenue-authority" insert the words "or the Collector if empowered by the Chief Controlling Revenue-authority in this behalf."</p> <p>4. After section 76 insert a new section, namely:—</p> <p style="padding-left: 40px;">"76A. The Local Government may, by notification in the local official Gazette, delegate—</p> <p style="padding-left: 40px;">Delegation of certain powers.</p> <p style="padding-left: 40px;">(a) all or any of the powers conferred on it by sections 2 (9), 33 (3) (b), 70 (1), 74 and 78 to the Chief Controlling Revenue-authority; and</p> <p style="padding-left: 40px;">(b) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45 (1) (2), 56 (1) and 70 (2) to such Revenue-subordinate authority as may be specified in the notification."</p>
"	VIII	The Indian Petroleum Act, 1899.	<p>To section 5, sub-section (1), after the words "Local Government," add the words "or an officer appointed by the Local Government in this behalf."</p>
1909	VI	The Lower Burma Courts Act, 1900.	<p>1. In section 23, sub-section (1), for the words "may be approved by the Governor General in Council" substitute the words "it may think fit."</p>

(The Schedule.)

THE SCHEDULE.

PART I—*contd.**Acts of the Governor General of India in Council.*

Year.	No.	Short title.	Amendments.
1900	VI	<i>The Lower Burma Courts Act, 1900—contd.</i>	2. In section 23 and section (2), read the words "with the previous sanction of the Governor General in Council" and the words "of its own authority" —
1901	VIII	<i>The Indian Mines Act, 1901</i>	1. In section 20, sub-section (1), for the words "with the previous sanction" substitute the words "subject to the control." 2. In section 20 for the words "The Governor General in Council" substitute the words "The Local Government" and for the words "the Gazette of India" the words "the local official Gazette" and for the word "him" substitute the word "it."
1902	II	<i>The Cantonments (Housing accommodation) Act, 1902</i>	In section 10, sub-section (1), for the words "Local Government" substitute the words "Commissioner, or, in a province where there are no Commissioners, of the Collector."
1903	XVI	<i>The Central Provinces Municipal Act, 1903</i>	1. In section 71, sub-section (2), before the words "the Governor General in Council" insert the words "the Local Government subject to the control of." 2. In section 112, sub-section (A), read the words "with the previous sanction of the Governor General in Council."
1904	IV	<i>The North West Border Military Police Act, 1904.</i>	In section 14 for the words "with the previous sanction" substitute the words "subject to the control."
1907	III	<i>The Provincial Insolvency Act, 1907</i>	In section 5, sub-section (1), read the words "with the previous sanction of the Governor General in Council."
1908	V	<i>The Courts of the Provinces Act, 1908</i>	In section 14, sub-section (1), for the words "with the previous sanction of the Governor General in Council" substitute the words "subject to the control."

(The Schedule.)

THE SCHEDULE.

PART I—contd.

Acts of the Governor General of India in Council.

Year.	No.	Short title.	Amendments.
1908	XIII	The Central Provinces Financial Commissioner's Act, 1908.	In section 2, sub-section (2), omit the words "with the previous sanction of the Governor-General in Council."
"	XVI	The Indian Registration Act, 1908.	<p>1. To section 6 the following proviso shall be added, namely :—</p> <p>"Provided that the Local Government may delegate, subject to such restrictions and conditions as it thinks fit, to the Inspector General of Registration the power of appointing Sub-Registrars."</p> <p>2. In section 12 for the words "the Local Government fills up the vacancy" substitute the words "the vacancy is filled up."</p> <p>3. In section 13, sub-section (1), before the word "all" insert the words "all appointments made by the Inspector General under section 6 and."</p> <p>4. To section 13 (3) add the words "and the Inspector General of Registration may, subject to such conditions and restrictions as the Local Government may impose, exercise the like power in the case of Sub-Registrars appointed by him."</p> <p>5. In sections 14 and 78 for the word "approval" substitute the word "control."</p>
"	XVII	The Indian Emigration Act, 1908.	<p>1. In section 11 for the words "Governor General in Council" substitute the words "Local Government."</p> <p>2. In section 50 for the words "obtained from the Local Government" substitute the words "granted in accordance with the provisions of this Act."</p>

(The Schedule)

THE SCHEDULE.

PART I—concl'd.

Acts of the Governor General of India in Council.

Year	No	Short title	Amendments
1909	XVII	The Indian Emigration Act, 1909— <i>concl'd</i>	<p>3. In section 51, sub section (1), for the words "through the Protector of Emigrants to the Local Government" substitute the words "to the Protector of Emigrants."</p> <p>4. In section 52, sub section (2), for the words "Local Government" substitute the words "Protector of Emigrants", and for the word "it" substitute the word "he"</p> <p>5. In section 53, sub section (1), clause (1), omit the words "the Protector of Emigrants and"</p> <p>6. In section 10^a, sub section (1), for the words "Governor General in Council" substitute the words "Local Government"; and for the words "Gazette of India" substitute the words "local official Gazette"</p>

THE SCHEDULE

PART II.

Regulations made by the Governor General of India in Council under section 1 of the Government of India Act, 1870.

Year	No.	Short title.	Amendments
1887	VIII	The Minor Irrigation Regulations, 1887.	In section 4, sub-section (1), for the words "with the previous sanction" substitute the words "subject to the sanction"
"	XII	The Upper Farms Duty Regulations, 1887.	1. In section 4 read the words "with the previous sanction of the Governor General in Council," wherever they occur

(The Schedule.)

THE SCHEDULE.

PART II—contd.

Regulations made by the Governor General of India in Council under section 1 of the Government of India Act, 1870.

Year.	No.	Short title.	Amendments.
1887	XII	<i>The Upper Burma Ruby Regulation, 1887—contd.</i>	2. In section 5, sub-section (2), clause (b), insert after the word "directs" the words "and in accordance with such conditions, if any, as to the time, place and mode of payment as it may direct" and omit sub-section (3).
1899	I	<i>The Coorg Land and Revenue Regulation, 1899.</i>	In section 60, sub-section (1), omit the words "with the previous sanction of the Governor General in Council."
1900	VI	<i>The Coorg District Fund Regulation, 1900.</i>	1 In section 3 omit the words "with the previous sanction of the Governor General in Council." 2. In section 9 omit the words "with the sanction of the Governor General in Council."
1907	II	<i>The Coorg Municipal Regulation, 1907.</i>	1. In section 50, sub-section (3), before the words "the Governor General in Council" insert the words "the Chief Commissioner subject to the control of." 2 In Section 143, sub-section (1), omit the words "with the previous sanction of the Governor General in Council."

THE SCHEDULE.

PART III.

Bengal Regulations.

Year.	No.	Short title.	Amendments.
1799	V	<i>The Bengal Wills and Intestacy Regulation, 1799.</i>	In section 7, the amendment made by the Repealing and Amending Act, 1903, Schedule II, Part I, is repealed, and for the words "Governor General in Council for his" substitute the words "Board of Revenue, or, in Assam, to the Local Government, for its."

ACT No. X of 1914

(THE REPEALING AND AMENDING ACT, 1914) [1]

(17th March, 1914.)

An Act to amend certain enactments and to repeal certain other enactments.

Whereas it is expedient that certain formal amendments should be made in the enactments specified in the First Schedule,

and whereas it is also expedient that certain enactments specified in the Second Schedule which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed,

It is hereby enacted as follows —

1. This Act may be called the Repealing and Amending Act, 1914 Short title.
2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof Amendment of certain enactments.
3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof Repeal of certain enactments.
4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to, Saving.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or

[1] It is to be observed that the Statement of Objects and Reasons of the Government of India, 1914, Vol. II, 1914, and the Proceedings in Council, 1914, Vol. II, 1914, are the only sources of information as to the objects and reasons of the Act.

It is to be observed that the Act does not extend to the territories of the princely States, and that it is not intended to be taken to extend to the territories of the princely States. It is provided here as it was contained in the last publication of the Government of India, Vol. II, 1914.

(Sec. 4. *The First Schedule.*)

appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment receive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

1	2	3	4
Year.	No.	Short title.	Amendments.
1850	XXXVII	The Public Servants (Inquiries) Act, 1850.	In section 8, for the words and figures "Act XXX of 1841" the words and figures "the Code of Criminal Procedure, 1898," shall be substituted.
1867	XXV	The Press and Registration of Books Act, 1867.	In section 19, for the words "Secretary to the Government of India in the Home Department," the words "Government of India" shall be substituted.
"	XXXII	The Chief Commissioners' Powers Act.	In the preamble, for the words "Chief Commissioners" the words "Chief Commissioner" shall be substituted.
1872	I	The Indian Evidence Act, 1872.	In section 37, for the words "the Governors in Council of Madras or Bombay, or of the Lieutenant-Governor in Council of Bengal" the following shall be substituted, namely: "any other legislative authority in British India constituted for the time being under the Indian Councils Act, 1861, the Indian Councils Acts, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909."

(The First Schedule.)

THE FIRST SCHEDULE—contd.

1	2	3	4
Year.	No.	Short title.	Amendments
1872	XV	The Indian Christian Marriage Act, 1872.	In section 50, for the words "and Bombay" the words "Bombay and Fort William in Bengal" shall be substituted.
1875	XIII	The Probate and Administration Act, 1875.	In the title, for the words "Probates and Letters of Administration" the words "Court Fees" shall be substituted.
1882	V	The Indian Easements Act, 1882.	For section 3 the following section shall be substituted, namely:— "3. All references in any Act or Regulation to sections 27 and 24 of Act No. IX of 1871 shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act."
"	XI	The Presidency Small Courts Act, 1852.	In section 19, clause (5), for the words "or Bombay" the words "Bombay or Fort William in Bengal" shall be substituted. In section 37, for the figures and words "83 or section 85" the words and figures "110 or section 112 of the Code of Criminal Procedure, 1891," shall be substituted. In section 38, for the words and figures "Presidency Magistrate Act, 1877," the words and figures "Code of Criminal Procedure, 1891," shall be substituted.
1890	X	The Indian Criminal Law Amendment Act, 1890.	In the title and preamble, for the words "Code of Criminal Procedure, 1892, and certain other Acts" the words "Indian Penal Code" shall be substituted.
"	XIII	The Indian Forestry Act, 1866.	In section 14, after the words "from time to time," the words "after previous publication" shall be inserted.

(The First Schedule.)

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1887	IX	The Provincial Small Cause Courts Act, 1887.	In the Second Schedule, clause (1), for the words "or Bombay" the words "Bombay or Fort William in Bengal" shall be substituted.
1891	I	The Land Acquisition Act, 1894.	In section 2, sub-sections (2) and (3), for the words "said Land Acquisition Act," the words and figures "Land Acquisition Act, 1870," shall be substituted.
"	VIII	The Indian Tariff Act, 1894.	In section 5, sub-section (2), for the words "and the Governor of Bombay in Council" the words "the Governor of Bombay in Council and the Governor in Council of Fort William in Bengal" shall be substituted.
"	IX	The Prisons Act, 1894 . . .	In section 47, clause (4), for the word "and" the word "or" shall be substituted.
1897	X	The General Clauses Act, 1897.	<p>In section 3, between clauses (3) and (4), the following shall be inserted namely :—</p> <p>"(3a) 'Assam Act' shall mean an Act made by the Chief Commissioner of Assam in Council under the Indian Councils Acts, 1861 to 1909 :"</p> <p>For clause (5) the following shall be substituted, namely :—</p> <p>"(5) 'Bengal Act' shall mean, in the case of Acts passed prior to the 1st April, 1912, an Act made by the Lieutenant-Governor of Bengal in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909, and in the case of Acts passed after that date, an Act made by the Governor of the Presidency of Fort William in Bengal in Council under the Indian Councils Acts, 1861 to 1909 :"</p>

(The First Schedule.)

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1897	X— <i>contd.</i>	The General Clauses Act, 1897— <i>contd.</i>	<p>After clause (5) the following shall be inserted namely:—</p> <p>“(5a) ‘Bihar and Orissa Act,’ shall mean an Act made by the Lieutenant Governor of Bihar and Orissa in Council under the Indian Councils Acts, 1861 to 1909.”</p> <p>To each of clauses (6) and (6a) the following shall be added, namely,—</p> <p>“or the Indian Councils Acts, 1861 to 1909.”</p> <p>After clause (16), the following shall be inserted, namely:—</p> <p>“(16a) ‘Eastern Bengal and Assam Act’ shall mean an Act made by the Lieutenant Governor of Eastern Bengal and Assam in Council under the Indian Councils Acts, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909.”</p> <p>To each of clauses (32), (44a) and (53a) the following shall be added, namely:—</p> <p>“or the Indian Councils Acts, 1861 to 1909.”</p>
“	XIV	The Indian Forest Taxes Act, 1877.	<p>In the Schedule, for the entry in column 4 against Act XIII of 1877, the following shall be substituted, namely:—</p> <p>“The Forest Taxes (Assam) Act, 1877.”</p>
1878	V	The Code of Criminal Procedure, 1878.	<p>In section 441, after the words “(40)” the words and figures “or section 112” shall be inserted, and after the words “is pronounced” the words “or for warrant him to a Magistrate for trial” shall be inserted.</p>

(The First Schedule.)

THE FIRST SCHEDULE—contd.

1	2	3	4
Year.	No.	Short title.	Amendments.
1899	II	The Indian Stamp Act, 1899.	In Schedule I, article 24, <i>Exemption (b)</i> , after the word "marriages" the word "divorces" shall be inserted.
1903	I	The Repealing and Amending Act, 1903.	In the title, after the word "enactments" where it first occurs, the word "and" shall be inserted.
"	XV	The Indian Extradition Act, 1903.	In the First Schedule, for the figures "446" the figures "444" shall be substituted.
1904	VIII	The Indian Universities Act, 1904.	In section 24, sub-section (6), for the figure "3" the figure "5" shall be substituted.
1907	III	The Provincial Insolvency Act, 1907.	In section 22, in the proviso, for the word "order" the word "act" shall be substituted. In section 44, sub-section (3) between the words "of" and "following" the word "the" shall be inserted.
1908	IV	The Coroners (Amendment) Act, 1908.	In section 2, before the words "the said Act," the words and figures "the Coroners Act, 1871, hereinafter referred to as" shall be inserted.
"	V	The Code of Civil Procedure, 1908.	In Schedule I: in Appendix E, Form No. 7, for the bracketed reference "(O. 21, r. 22)" the following shall be substituted, namely:— "(O. 21, r. 16);" In Appendix F, the last two Forms shall be renumbered 9 and 10 instead of 6 and 7 respectively.
1910	IX	The Indian Electricity Act, 1910.	In the Schedule, in clause VII (1), for the words "a notice" the words "one month's notice" shall be substituted.

(The First Schedule.)

THE FIRST SCHEDULE—concl'd.

1	2	3	4
Year.	No.	Short title.	Amendments.
1910	XV	The Cantonments Act, 1910	In section 3, sub-section (1), after the word "place" the words "or places" and after the word "quartered" the words "or which, being in the vicinity of such place or places, are required for the service of the troops" shall be inserted.
1911	XVII	The Indian Airships Act, 1911.	In section 12, clause (b), for the word "to" the word "by" shall be substituted.
"	XVIII	The Calcutta Improvement (Appeals) Act, 1911.	In section 3, sub-section (2), after the words "lie on" the words "one or more of" shall be inserted. In section 5, for the words "appeal as if it were" the words "appeal under this Act, as if it were" shall be substituted.
1913	II	The Official Trustees Act, 1913.	In section 30, sub-section (2), the following clause shall be inserted after clause (c):— "(cc) The disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of the Official Trustee as the Government may consider useless or unworthy of being permanently preserved."
"	III	The Administrator General's Act, 1913.	In section 50, sub-section (2), the following clause shall be inserted after clause (f):— "(ff) The disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of the Administrator General as the Government may consider useless or unworthy of being permanently preserved."
"	VII	The Indian Companies Act, 1913.	In the First Schedule, in Table A, paragraph VI, for the word "found" the word "found" shall be substituted.

THE SECOND SCHEDULE.

REPEALS.

(See section 3.)

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1834	II	The Secretaries to Government Act, 1834.	The words "and to the Government of Fort William in Bengal."
1838	XXV	The Wills Act, 1838 . . .	In section 1, the words from "and every word importing the singular" to "a male."
1839	XXIX	The Dower Act, 1839 . . .	In section 1, the words from "and every word importing" to "or thing."
"	XXX	The Inheritance Act, 1839 . .	In section 1, the words from "and every word importing the singular" to "a male."
1841	X	The Indian Registration of Ships Act, 1841.	In section 15, the words "upon conviction" occurring between the words "liable" and "on." In section 23, the words "on conviction" where they occur for the second time.
1852	XXX	The Indian Naturalization Act, 1852.	In section 12, the words from "and words denoting" to "feminine."
1855	XIII	The Indian Fatal Accidents Act, 1855.	In section 1, the words "and it is enacted further that." In section 4, the words from "words denoting the singular" to "feminine gender, and."
"	XXIV	The Penal Servitude Act, 1855.	Section 8 so far as it has not been repealed by Act XII of 1867. In section 15, the words from "words in the singular" to "construction."
1859	I	The Indian Merchant Shipping Act, 1859.	In section 118, the words from "the words importing the singular" to "females."
1861	V	The Police Act, 1861 . . .	In section 1, the words from "words importing the singular" to "females."
"	XVI	The Stage Carriages Act, 1861.	In section 21, the words from "words importing the singular" to "feminine." The word "Chief" wherever it occurs before the words "Commissioner of Police."

(The Second Schedule.)

SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1863	XX	The Religious Endowments Act, 1863.	In section 2, the words from "words importing the singular" to "females."
"	XXIII	The Waste Lands (Claims) Act, 1863	Section 24.
1864	III	The Foreigners Act, 1864	In section 1, the words from "words importing the singular" to "females." Section 24.
1865	III	The Carriers Act, 1865	In section 2, the words from "words in the singular" to "include the singular."
"	X	The Indian Succession Act, 1865.	In section 3, the words from "words importing the singular" to "females."
"	XV	The Parsi Marriage and Divorce Act, 1865.	In section 2, the words from "words in the singular" to "include the singular."
1866	XXI	The Native Converts' Marriage Dissolution Act, 1866.	In section 3, the words from "and unless" to "include the singular."
"	XXVII	The Indian Trustee Act, 1866.	In section 2, the words from "words importing the singular" to "female."
1867	XXII	The Sarsas Act, 1867	In section 2, the words from "words in the singular" to "one term."
"	XXV	The Press and Registration of Books Act, 1867.	In section 1, the words from "words in the singular" to "female."
"	XXXII	The Chief Commissioners' Powers Act.	In the preamble, the words "any of" and "Orth" and in section 1, the words "Orth" and "as the case may be."
1871	I	The Cattle Trespass Act, 1871	In section 1, the sub-section (3) In section 24, the words from "the Local Government may at any time" to "make this order." In section 31, the words from "and may" to "this section."
"	XXIII	The Poisons Act, 1871	In section 1, the words from "And it shall" to "thereof."
1872	I	The Indian Foresters Act, 1872	In section 27, the words from "The section applies" to "Forest."

(The Second Schedule.)

SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1872	IX	The Indian Contract Act, 1872.	In section 1, the words from "the enactments" to "thereof; but." The Schedule.
1874	IX	The European Vagrancy Act, 1874.	In section 26, the words from "All fines imposed" to "courts."
1875	XIII	The Probate and Administration Act, 1875.	In the preamble, the words from "Whereas" where it occurs for the first time, to the word "and," where it occurs for the second time; and the word "also" occurring between the words "it is" and "expedient."
1876	IX	The Native Coinage Act, 1876.	In section 1, the words "and it shall come into force at once."
"	XIII	The Indian Merchant Seamen's Act, 1876.	In section 1, the words "and it shall come into force at once."
"	XIX	The Dramatic Performances Act, 1876.	In section 1, the words "and it shall come into force at once."
1878	VI	The Indian Treasure-trove Act, 1878.	In section 1, the words "and it shall come into force at once."
"	VII	The Indian Forest Act, 1878.	In section 1, the words from "on and from" to "hereunder." The schedule.
"	VIII	The Sea Customs Act, 1878	Section 205.
1879	III	The Destruction of Records Act, 1879.	In section 1, the words "and it shall come into force at once." In section 3, the bracketted letter (a) and clause (b).
1880	I	The Religious Societies Act, 1880.	In section 1, the word "shall come into force at once and."
"	XII	The Kazis Act, 1880	In section 1, the words "and it shall come into force at once."
1881	XI	The Municipal Taxation Act, 1881.	In section 1, the words "and shall come into force at once."
"	XVI	The Obstructions in Fairways Act, 1881.	In section 1, the words "and it shall come into force at once."
1882	XII	The Indian Salt Act, 1882	In section 1, the words "and it shall come into force at once."

(The Second Schedule.)

SECOND SCHEDULE—contd.

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1882	XV	The Presidency Small Cause Courts Act, 1882	In section 19, clause (r), the words "for the recovery of a wife." Sections 83, 84, 85 and 165 In section 69, the words and figures "section 83 or."
"	XIX	The Punjab University Act, 1882	In section 1, the words "and it shall come into force at once."
1884	IV	The Indian Explosives Act, 1884	In section 6, sub-section (1), the word "and" after clause (1), and clause (1)
"	VII	The Indian Steamships Act, 1884.	Section 9, sub-section (2)
"	IX	The Legal Practitioners Act, 1884	In the title, the words "and the Indian Stamp Act, 1879" In the preamble, the second clause. In section 1, the word "and" after sub-section (1); and sub-section (2) Section 3
1886	X	The Indian Criminal Law Amendment Act, 1886.	The heading: "Indian Penal Code," Section 22.
"	XIII	The Indian Securities Act, 1886.	In section 15, sub-sections (1), (2), (3) and of sub-section (4) the words from "and the" to the end
1887	II	The Sea Customs Act (1887) Amendment Act, 1887	The heading: "Sea Customs Act, 1879."
"	IX	The Provincial Small Cause Courts Act, 1887.	In the second schedule, in item (27), the words "for the recovery of a wife"
"	XVIII	The Aligarh University Act, 1887.	In section 1, the word "and" after sub-section (1), and sub-section (2)
1888	III	The Police Act, 1888	In section 1, the word "and" after sub-section (2), and sub-section (3)
"	VI	The Debtors Act, 1888	So much as is repealed
1889	I	The Postal Tokens Act, 1889	In section 1, the word "and" after sub-section (2); and sub-section (2)
"	VI	The Postage and Telegraphs Act, 1889	In section 3, and in section 1, the words "and the" after clause (1), and clause (2)

(The Second Schedule.)

SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1889	VI	The Probate and Administration Act, 1889— <i>contd.</i>	In section 1, the word "and" after sub-section (2); and sub-section (3). Section 8.
1890	I	The Revenue Recovery Act, 1890.	In section 1, the word "and" after sub-section (2); and sub-section (3).
"	V	The Forest Act, 1890	In the title and preamble, the words "and the Burma Forest Act, 1881." In section 1, the word "and" after sub-section (1); and sub-section (2). The headings: " <i>Indian Forest Act, 1878,</i> " and " <i>Burma Forest Act, 1881.</i> "
"	XIII	The Excise (Malt-Liquors) Act, 1890.	In the title and in the preamble, the words and figures "to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and." In section 1, the word "and" after sub-section (1); and sub-section (2).
"	XIX	The Indian Salt Act (1882) Amendment Act, 1890.	So much as is unrepealed.
1891	III	The Indian Evidence Act (1872) Amendment Act, 1891.	In the title and preamble, the words "and the Code of Criminal Procedure, 1882"; the heading " <i>Indian Evidence Act, 1872;</i> " and the heading " <i>Code of Criminal Procedure, 1882,</i> " after section 8.
"	IX	The Indian Merchandise Marks and Sea-custom Acts Amendment Act, 1891.	Sections 1 and 2.
"	XII	The Amending Act, 1891	In section 1, the word "and" after sub-section (2); and sub-section (3). Sub-section (3) of section 2 and of Part I of the Second Schedule, so much as relates to Act XXI of 1879 and Act XV of 1883.
"	XIII	The Inland Steam-vessels Act, (1884) Amendment Act, 1891.	Section 3.
"	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	Section 5 and the Schedule.

(The Second Schedule.)

SECOND SCHEDULE—contd.

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1891	XVII	The Deck and Load Lines Act, 1891.	Section 5.
"	XVIII	The Bankers' Books Evidence Act, 1891	In section 1, the word "and" after sub section (2); and sub section (3).
1892	II	The Marriage Validation Act, 1892.	Section 1.
"	VI	An Act to amend the Indian Limitation Act, 1877, and the Code of Civil Procedure.	So much as is unrepealed
"	VIII	The Lansdowne Bridge Act, 1892.	In section 1, the word "and" after sub section (2); and sub section (3).
"	X	The Government Management of Private Estates Act, 1892.	In section 1, the word "and" after sub section (2); and sub section (3) Section 9.
1893	I	The Bankers' Books Evidence Act, 1893	In section 1, the word "and" after sub-section (1), and sub-section (2)
"	IV	The Partition Act, 1893	In section 1, the word "and" after sub-section (2), and sub-section (3)
1894	I	The Land Acquisition Act, 1894.	In section 2, sub-section (1), and of sub section (2) the word "Pat."
"	III	The Indian Criminal Law Amendment Act, 1894	In the title and preamble, the words and figures "The Code of Criminal Procedure, 1892, and" The heading: "Indian Penal Code."
"	VIII	The Indian Tarrif Act, 1894	In section 1, the word "and" after sub-section (2), and sub-section (3).
"	XV	The Engineers' Certificates Validation Act, 1894	In section 1, the word "and" after sub-section (1), and sub-section (2)
1895	I	The Presidency Small Cause Courts Act, 1895.	In section 2, sub-section (2). Section 12.
"	III	The Indian Criminal Law Amendment Act, 1895.	In the title and preamble, the words and figures "Act VI of 1894 and the Indian Penal Code Act, 1860" The heading: "Indian Penal Code"
"	X	The Indian Railway Companies Act, 1895	In section 1, the word "and" after sub-section (2) and sub-section (3)

(The Second Schedule.)

SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1895	XV	The Crown Grants Act, 1895 .	In section 1, the word "and" after sub-section (2); and sub-section (3).
1896	II	The Cotton Duties Act, 1896 .	In section 1, the word "and" after sub-section (2); and sub-section (3). In section 8, sub-section (4), the words from "and the first of such returns" to "commencement of this Act." Part III.
"	VIII	The Inland Bonded Warehouses Act, 1896.	In section 1, the word "and" after sub-section (2); and sub-section (3). Section 4, sub-section (4).
"	IX	The Indian Railways Act (1890) Amendment Act, 1896.	Section 5.
"	X	The Indian Volunteers Act Amendment Act, 1896.	In section 1, the word "and" after sub-section (2); and sub-section (3).
"	XII	The Excise Act, 1896 . .	In section 1, sub-section (2), the words "the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh;" the word "and" after sub-section (2); and sub-section (3). In section 3, sub-section (1), clause (a), the words "in the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh—the Board of Revenue."
1897	III	The Epidemic Diseases Act, 1897.	In section 1, the word "and" after sub-section (2); and sub-section (3).
"	IV	The Indian Fisheries Act, 1897.	In section 1, the word "and" after sub-section (2); and sub-section (3).
"	V	The Amending Act, 1897 .	In section 1, the word "and" after sub-section (1); and sub-section (2). In the Second Schedule, Part II, the entry relating to Bengal Act VIII of 1862.
"	VI	The Negotiable Instruments Act Amendment Act, 1897.	In section 1, the word "and" after sub-section (1); and sub-section (2).
"	VIII	The Reformatory Schools Act, 1897.	In section 1, the word "and" after sub-section (1); and sub-section (2)

(The Second Schedule.)

SECOND SCHEDULE—*contd.*

1	2	3	4
[Year.	No.	Subject or short title.	Extent of repeal.
1837	IX	The Provident Funds Act, 1837.	In section 1, the word "and" after sub-section (2); and sub-section (3)
"	X	The General Clauses Act, 1837.	In section 1, the word "and" after sub-section (1); and sub-section (2)
"	XIV ⁽¹⁾	The Indian Short Titles Act, 1837.	In section 1, the word "and" after sub-section (1); and sub-section (2) In the schedule, the entries relating to— Act X of 1875. Act V of 1887. Act I of 1888. Act XX of 1889. Act XVIII of 1890. Act IV of 1891. Act V of 1891. Act VI of 1892. Act V of 1893. Act II of 1894. Act VI of 1894. Act X of 1894. Act IV of 1895. Act XIII of 1895. Act I of 1896. Act IV of 1896. Act V of 1896. Act XIII of 1896. Act XIII of 1897.
1898	I	The Stage Carriages Act (1861) Amendment Act, 1898.	Section 2.
"	IV	The Indian Penal Code Amendment Act, 1898.	In section 1, the word "and" after sub-section (1); and sub-section (2)
"	V	The Code of Criminal Procedure, 1898.	Section 2 and the First Schedule. In section 471 (1), the words "and shall report the case for the orders of the Local Government" In section 471 (4), the word "and" after "figure" in section 472.
"	VI	The Indian Post Office Act, 1898.	Section 76 and the Second Schedule.
"	IX	The Live-stock Importation Act, 1898.	In section 1, the word "and" after sub-section (2); and sub-section (3)

(The Second Schedule.)

SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1898	X	The Indian Insolvency Rules Act, 1898.	In section 1, the word "and" after sub-section (1); and sub-section (2).
1899	I	The Indian Marine Act (1887) Amendment Act, 1899.	In section 1, the word "and" after sub-section (1); and sub-section (2).
"	II	The Indian Stamp Act, 1899.	In section 1, sub-section (2), the words "Upper Burma." Section 79 and the Second Schedule.
"	III	The Presidency Small Cause Courts Act, 1899.	In section 1, the word "and" after sub-section (1); and sub-section (2).
"	IV	The Government Buildings Act, 1899.	In section 1, the word "and" after sub-section (2); and sub-section (3).
"	V	The Indian Evidence Act, 1899.	In section 1, the word "and" after sub-section (1); and sub-section (2). Section 2. Section 5.
"	VII	The Inland Steam-vessels Act (1884) Amendment Act, 1899.	In section 1, the word "and" after sub-section (1); and sub-section (2).
"	VIII	The Indian Petroleum Act, 1899	In section 1, the word "and" after sub-section (1); and sub-section (2). Section 25 and the Second Schedule.
"	XI	The Courts-fees Amendment Act, 1899.	In section 1, the word "and" after sub-section (1); and sub-section (2). Section 4.
"		The Currency Notes Forgery Act, 1899.	In section 1, the word "and" after sub-section (1); and sub-section (2).
"	XIII	The Glanders and Farcy Act, 1899.	In section 1, the word "and" after sub-section (2); and sub-section (3). Section 17 and the schedule.
"	XIV	The Indian Tariff Amendment Act, 1899.	In section 1, the word "and" after sub-section (1); and sub-section (2).
"	XVIII	The Land Improvement Loans (Amendment) Act, 1899.	In section 1, the word "and" after sub-section (1); and sub-section (2).
"	XIX	The Currency Conversion (Army) Act, 1899.	In section 1, the word "and" after sub-section (2); and sub-section (3).
"	XX	The Presidency Banks Act, 1899.	In section 1, the word "and" after sub-section (1); and sub-section (2).

(The Second Schedule)

SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title	Extent of repeal.
1899	XXIII	The Church of Scotland Kirk Sessions Act, 1899	In section 1, the word "and" after sub-section (2), and sub-section (3)
1900	II	The Transfer of Property Act, 1900	In section 1, the word "and" after sub-section (1); and sub-section (2),
"	III	The Prisoners Act, 1900	In section 1, the word "and" after sub-section (2), and sub-section (3). Section 53 and the Third Schedule.
"	VI	The Lower Burma Courts Act, 1900.	In Schedule I, Part I, the entries relating to Act II of 1877 and Act V of 1891.
"	VII	Amending Act XIX of 1899.	Section 2.
"	XII	The Bankers' Books Evidence Act, 1900	In section 1, the word "and" after sub-section (1), and sub-section (2).
1901	II	The Indian Tolls (Army) Act, 1901	Section 8 and of the Schedule so much as is unrepealed.
"	V	The Indian Forest (Amendment) Act, 1901	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	VII	The Native Christian Administration of Estates Act, 1901.	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	VIII	The Indian Mines Act, 1901	In section 1, the word "and" after sub-section (2); and sub-section (3). Section 32.
"	X	The Court fees (Amendment) Act, 1901	In section 1, the word "and" after sub-section (1); and sub-section (2).
"	XI	The Amending Act, 1901	In the title, the words "and repeal" and "omitted" In section 1, the word "and" after sub-section (1), and sub-section (2)
1902	III	The Indian Steamships (Amending and Validating) Act, 1902	Section 2.
"	VI	Act to abolish the Pardhari Tax	The whole Act.
"	VIII	The Indian Tariff (Amendment) Act, 1902.	Section 3
1903	I ⁽¹⁾	The Repealing and Amending Act, 1903	In the title, the words "and to repeal certain other enactments"

(The Second Schedule.)

SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1903	I	The Repealing and Amending Act, 1903— <i>contd.</i>	In the preamble, the third clause. In section 1, the words "Repealing and." Sections 4 and 5 and the Third Schedule. In the First Schedule, in Part III, the entry relating to Bengal Act VIII of 1862.
"	VIII	The Probate and Administration Act, 1903.	Section 4.
"	X	The Victoria Memorial Act, 1903.	In section 1, the word "and" after sub-section (1); and sub-section (2).
"	XII	The Indian Tariff (Amendment) Act, 1903.	In section 1, sub-section (2); and section 3.
"	XV	The Indian Extradition Act, 1903.	Section 24 and the Second Schedule.
1904	VIII	The Indian Universities Act, 1904.	Sections 12 and 29 and the Second Schedule.
"	XI	An Act to revive and continue section 8 (b) of the Indian Tariff Act, 1894.	Section 2.
"	XV	The Indian Stamp (Amendment) Act, 1904.	In section 1, sub-section (2), the words "Upper Burma."
"	XVI	The Sea Customs (Amendment) Act, 1904.	The whole Act.
1905	II	The Indian Universities (Validation) Act, 1905.	The whole Act.
1906	III	The Indian Coinage Act, 1906.	In section 24, the first clause; and the words "Provided that" and "notwithstanding the repeal of the said Acts"; and the schedule.
"	VIII	The Land Improvement and Agriculturists' Loans (Amendment) Act, 1906.	Sections 2, 3 and 5.
1908	V	The Code of Civil Procedure, 1908.	In section 60, sub-section (2), the bracketted letter (a), the word "or" after clause (a) and clause (b).
"	XVII	The Indian Emigration Act, 1908	Section 110 and the Fourth Schedule.

(The Second Schedule.)

SECOND SCHEDULE—concluded.

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1909	III	The Presidency towns Insolvency Act, 1909.	In section 127, the first sub-section and the first seven words of sub-section (2) The Third Schedule.
1910	II	The Indian Paper Currency Act, 1910.	In section 39, the words from "The enactments" to "thereof" and "Provided that" and "Provided also that", and the schedule.
"	VI	The Indian Stamp (Amendment) Act, 1910.	In section 3, clause (ii)
"	X	The Indian Museum Act, 1910.	Section 17.
"	XV	The Cantonments Act, 1910	Section 31 and the Schedule.
1911	III	The Criminal Tribes Act, 1911.	Section 29.
"	XII	The Indian Factories Act, 1911.	In section 36, sub-section (2), the words from "within one month of the commencement of this Act, or" to "this Act."

Regulations by the Governor General in Council.

1900	V	The Coorg Land and Revenue Regulation, 1900.	The whole.}}
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Bengal Regulations.

1833	IX ^[1]	The Bengal Land Revenue (Settlement and Deputy Collectors) Regulation, 1833.	Sections 17, 18 and 23.
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Acts of the Lieutenant-Governor of Bengal in Council.

1862	VIII ^[2]	The Bengal Zamindari Dak Act, 1862.	The whole Act.
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[1] Printed *etc.*

[2] Printed in Vol. II of the Code.

ACT No. 8 of 1915.[¹]

[THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) ACT, 1915.]

(25th March, 1915.)

An Act further to amend the Assam Labour and Emigration Act, 1901.

Whereas it is expedient further to amend the Assam Labour and Emigration Act, 1901; It is hereby enacted as follows:—

1. (1) This Act may be called the Assam Labour and Emigration (Amendment) Act, 1915.

(2) It shall come into force at once, with the exception of section 7, which shall come into force on such day as the Governor General in Council may, by notification in the *Gazette of India*, appoint in this behalf.

2. In section 2 (1) of the Assam Labour and Emigration Act, 1901 (hereinafter called the said Act), the following amendments shall be made, namely:—

(a) After clause (c) the following clause shall be added, namely:—

"(cc) 'Board' means the Assam Labour Board constituted under Chapter VI-A."

(b) To clause (c) the following Explanation shall be added, namely:—

"Explanation.—If any such native of India, having proceeded from a Native State into such territories, departs therefrom for the purpose aforesaid, he shall be deemed to emigrate within the meaning of this definition."

(c) After clause (n) the following clause shall be added, namely:—

"(nn) 'native district,' in the case of a person who, having proceeded from a Native State into territories in which this Act is in force, emigrates therefrom, includes such Native State."

[¹] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons see *Gazette of India*, 1915, Part V, p. 39, and for Proceedings in Council, see *ibid.*, Part VI, pp. 172, 173.
LOCAL EXTENT.—The local extent of this is the same as that of Act 6 of 1901, to which it is linked in the [1] on p. 62, *etc.*

(Secs. 3-5.)

(d) After clause (i) the following shall be added, namely:—
“and

(u) ‘Supervisor’ means a Supervisor appointed under this Act.”

Amendment
of section 64,
Act VI, 1901.

3. For sub-section (1) of section 64 of the said Act, the following sub-sections shall be substituted, namely:—

“(1) The Local Government may authorize any Superintendent to grant licenses to suitable persons to be Local Agents, for the purpose of representing employers within a specified area and for a specified period, in all matters connected with the supervision of garden-sardars under this Act.

(2) Any employer, or, on behalf of an employer, any association or firm duly authorized by general or special order of the Governor General in Council for the purpose of this clause, may apply for a license as aforesaid, to be granted to a specified person.

(3) Every such application shall be made to the Board, and the Board shall forward it with its recommendation to the Superintendent, who may thereupon, if he thinks fit, grant a license to such person.”

and the existing sub-section (2) of the same section shall be renumbered (4).”

Amendment
of section 67,
Act VI, 1901.

4. In section 67 (1) of the said Act there shall be substituted for the words “the employer,” the words “his employer or the association or firm which has applied in respect of such Local Agent under section 64, sub-section (2)” and for the words from “or if” to the end of the sub-section, the following words, namely:—

“or if the District Magistrate is satisfied that the conduct of the Local Agent has been such as to render him unsuitable to hold a license.”

Insertion of
new Chapter
VI-A in Act
VI, 1901.

5. After section 116 of the said Act the following provisions shall be inserted, namely:—

“CHAPTER VI-A.

ASSAM LABOUR BOARD:

Constitution
of Assam
Labour
Board.

116-A. (1) There shall be a Board, to be called the Assam Labour Board, for the supervision of Local Agents, and of the recruitment, engagement and emigration to labour districts of natives of India under this Act.

(Sec. 5.)

(2) The Assam Labour Board shall be a body corporate, and have perpetual succession and a common seal, and may by that name sue and be sued.

(3) The Assam Labour Board (hereinafter called the Board) shall consist of sixteen members, including the Chairman, who shall be an officer in the service of Government, to be appointed by the Governor General in Council by notification in the *Gazette of India*. The remaining members shall be elected by the following bodies, namely:—

(a) eight by the Indian Tea Association, Calcutta, as representatives of that Association and of the Indian Tea Association, London;

(b) four by the Assam Branch, Indian Tea Association; and

(c) three by the Surma Valley Branch, Indian Tea Association.

(4) The election shall be made in such manner as may be determined by the electing bodies, subject to the approval of the Governor General in Council, and the name of every person so elected shall be published in the *Gazette of India*.

(5) If within the period prescribed by rules made under this Chapter any of the aforesaid bodies fails to elect representatives or to elect the full number of representatives to which it is entitled, the Governor General in Council may nominate persons to be members of the Board as representatives of the said bodies.

(6) There shall be an Executive Committee of the Board, with such powers and duties as may be conferred on it by rules made under this Chapter. It shall consist of five members, of whom one shall be the Chairman of the Board, and the remaining four shall be elected in the manner prescribed by such rules, as representatives of the following bodies, namely:—

(a) one of the Indian Tea Association, Calcutta;

(b) one of the Indian Tea Association, London;

(c) one of the Assam Branch, Indian Tea Association; and

(d) one of the Surma Valley Branch, Indian Tea Association.

(7) No act done by the Board or by the Executive Committee shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Board or of the Executive Committee, as the case may be.

" 116-B. (1) The Governor General in Council may fix the salary of the Chairman of the Board.

(Sec. 5.)

(2) Such salary shall be paid in such proportions by the Governor General in Council and the Board, as the Governor General in Council may from time to time determine.

Appointment
and func-
tions of Su-
pervisors.

“116-C. (1) The Board may appoint so many persons as it thinks necessary to be Supervisors, with such powers and duties in respect of the supervision of Local Agents and the other matters mentioned in section 116-A. (1) as may be conferred and imposed on them by rules made under this Chapter.

(2) Subject to the control of the Governor General in Council, the Board may fix the salary to be paid to Supervisors.

(3) The Local Government may, subject to the control of the Governor General in Council, declare the local area in the Province within which Supervisors shall exercise the powers and perform the duties conferred and imposed upon them by rule under this Chapter.

(4) Every Supervisor shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV

Endorsement
of Local
Agents'
licenses.

“116-D. (1) Whenever the Board has reason to believe that the conduct of a Local Agent has been such as to detract from his suitability to hold a license it may call on him to produce his license, and after hearing any cause that he may have to show to the contrary, may make such endorsement thereon as it thinks fit. A copy of every such endorsement shall be sent to the Superintendent of Emigration in the district for which the Local Agent holds a license, and a copy shall also be sent to the employer or association or firm on whose application the Local Agent's license was granted.

(2) If the Local Agent fails to produce his license when called upon under sub-section (1), he shall be punishable with fine which may extend to two hundred rupees.

Cess.

“116-E. (1) Subject to the provisions of rules made under this Chapter, the Board may levy a cess on employers for the purpose of meeting expenditure incurred in carrying out its functions under this Act, and in particular for the payment of the salary of Supervisors and of such proportion of the salary of the Chairman as may be determined under section 116-B.

(2) Such cess shall be payable on every garden-sardar deputed by his employer to engage labourers and on every person recruited or engaged as a labourer or assisted to emigrate under Chapter IV or section 91:

Provided that the rates at which the cess is levied shall not exceed the following, namely:—

Five rupees a year on each garden-sardar so deputed, and

(Secs. 6-7.)

Five rupees on each person so recruited, engaged, or assisted to emigrate.

(3) On the failure of an employer for the space of one month after the receipt of a notice in such form and served in such manner as the Governor General in Council may, by rule under this Chapter, prescribe, to pay any sum due under sub-section (1), the same shall be recoverable from him.

" 116-F. (1) The Governor General in Council shall, after previous publication, make rules to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules, may, subject to the provisions of this Act, provide—

- (a) for the powers to be exercised and the duties to be performed by the Board in carrying out the purposes for which it is constituted, and for the powers and duties of the Executive Committee and of the Chairman;
- (b) for the period within which elections to the Board must be made; for the election of members of the Executive Committee; and for the appointment of temporary or acting members of the Board and of the Executive Committee during the absence of any member;
- (c) for the times and places of meetings and procedure of the Board and of the Executive Committee;
- (d) for regulating the rate of the cess, the method of levying and collecting the cess, the purposes to which the cess may be applied, and the accounts to be kept and the audit thereof; and
- (e) for the powers and duties of Supervisors appointed under section 116-C."

6. (1) The following portions of the said Act are hereby repealed, *Enacted* namely, section 90; in section 91, the words "notwithstanding anything contained in section 90," and in clause (b) thereof, the words "or holding permits granted and countersigned under section 90," and the words "or of that section, as the case may be;" and clause (c) of section 174. *as amended*

(2) In section 92 of the said Act for the words and figures "sections 90 and 91" there shall be substituted the word and figures "section 91."

7. (1) The portions of the said Act specified in the Schedule to this *Enacted* Act are hereby repealed to the extent mentioned in the said Schedule of the Schedule. *as amended*

(Sec. 7.)

(2) The following amendments shall be made in the said Act, namely:—

- (i) In the heading to Chapter V, and in section 92 there shall be substituted for the words and figures "Chapters III and IV" the word and figures "Chapter IV."
- (ii) In section 93 (2) there shall be substituted for the words and figures "Chapters II to IV inclusive," the words and figures "Chapter II or IV" and for the words and figures "Chapters VI to X" the words and figures "Chapters VI (except Chapter VIA) to X."
- (iii) For section 172 of the said Act, the following section shall be substituted, namely:—

" 172. (1) Whoever, being a garden-sardar holding a certificate under Chapter IV,—

- (a) makes over to the garden-sardar or Local Agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer or whom he has assisted or intends to assist to emigrate under Chapter IV as modified by any notification issued under section 91; or
- (b) places any such person as aforesaid in a place of accommodation used in connection with the unlawful recruitment or engagement of labourers; or
- (c) allows any person unlawfully recruited or engaged as a labourer to share the accommodation provided by him under section 62;

shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and his certificate may be impounded by the convicting Magistrate.

(2) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned."

garden-
sardar
making over
labourers to
unauthorised
persons, etc.

(The Schedule.)

THE SCHEDULE.

PORTIONS OF ACT VI OF 1901 REPEALED.

[See section 7 (I).]

1	2
Chapter or Section.	Extent of repeal.
S. 2 (1)	Clause (e). In clause (d) the words "contractor, sub-contractor, recruiter." In clause (l) the words and figures "section 34 or." Clauses (o) and (r).
S. 12 (1)	Clause (a). In clause (c) the words from "or if the labourer" to the end of the clause.
F. 12 (2)	The whole.
S. 12 (3)	The whole.
Chapter III	The whole.
R. 65	The whole.
R. 91	Clause (a).
F. 163 (2)	In clause (b) the words "contractors or" Clause (f). In clauses (m) to (r) the word "contractors," wherever it occurs.
F. 163 (3)	The word "contractor" in both places where it occurs.
Fs. 165 to 169	The whole.
S. 171	The words and figures "section 23 or."
S. 174	Clause (a).
F. 175	The whole.

REGULATION No. 3 of 1872 [1]

(THE SONTHAL PARGANAS SETTLEMENT REGULATION.)

[5th May, 1872]

A Regulation for the peace and good government of the territory known as the Sonthal Parganas.

1. This Regulation may be called the Sonthal Parganas Settlement Regulation.

2. It extends to the whole of the Sonthal Parganas as described in the Schedule [2] attached to Act X of 1857 and in the Notification [3] of the Governor General in Council, No. 478, dated 12th March, 1872

It shall come into force on the first day of May, 1872

It shall be read with Act XXXVII of 1855 [4] and Act X of 1857 [5]

[6] 3. (1) The enactments specified in the Schedule shall be deemed to be in force in the Sonthal Parganas, except—

(a) such portions of such enactments as have been repealed by any enactment specified in the Schedule, and

(b) in the case of any enactment passed before the 25th day of August, 1886, such portions thereof as had on that day been repealed in the territories to which the enactment generally applies.

(2) No other enactment, heretofore or hereafter passed, shall, unless the Sonthal Parganas be expressly named therein, be deemed to apply to the said Parganas, except so far as regards the trial and determination of the civil suits referred to in section 2 of Act XXXVII of 1855, [7]

[1] LOCAL EXTENT.—This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855), *extending to a 2, of the Regulation*. The Regulation is formally included in the Schedule of laws in force in these Parganas—*see post*, p. 101

AMENDMENTS.—The Sonthal Parganas Rent Regulation, 1876 (11 of 1876), is to be read with, and be taken as supplementary to the Sonthal Parganas Regulation 11 of 1876, a 1 (2), *see post*, p. 611. The Sonthal Parganas Settlement Regulation, 1904 (11 of 1904), is also to be read with, and taken as part of, this Regulation—*see Regulation 11 of 1904, a 1 (2) ibid.*, p. 435.

[2] The Schedule is printed *exte.*, p. 375 and the Notification is published in the Gazette of India 1872, Part I, p. 250. The descriptions in the Schedule and the Notifications are identical.

[3] The Sonthal Parganas Act, 1855. It is printed *exte.*, p. 374.

[4] The Sonthal Parganas Act, 1857. It is printed *exte.*, p. 377.

[5] This section was originally titled for the original a 3 (as amended by the Sonthal Parganas Laws Regulation, 1877 (111 of 1877), by a 3 of the Sonthal Parganas Justice and Laws Regulation, 1879 (111 of 1879) *see post*, p. 122.

(Secs. 4-5.)

in which the matter in dispute exceeds the value of one thousand rupees, when such suits are tried in Courts established under the Bengal, [1] [Agra] and Assam Civil Courts Act, 1887. [2]

(3) Notwithstanding anything hereinbefore contained, the Local Government may, by notification in the Calcutta Gazette,—

XII of 1887.

(a) declare that any other enactment [3] shall be deemed to be in force in the Sonthal Parganas,

(b) withdraw any such declaration, or

(c) with the previous sanction of the Governor General in Council, declare that any enactment specified in the Schedule shall cease to be in force in the Sonthal Parganas.

4. [Power to invest officers with Civil Court powers.] Rep. by the Sonthal Parganas Justice Regulation, 1893 (V of 1893).

[4]5. (1) From the date on which, under section 9, the Lieutenant-Governor declares, by a notification in the Calcutta Gazette, that a settlement shall be made of the whole or any part of the Sonthal Parganas, until the date on which such settlement is declared, by a like notification, to have been completed, no suit shall lie in any Civil Court established under the Bengal, [1]Agra and Assam Civil Courts Act, 1887, in regard to—

(a) any land or any interest in, or arising out of, land, or

(b) the rent or profits of any land, or

(c) any village headship or other office connected with any land,

in the area covered by such first-mentioned notification; nor shall any Civil Court proceed with the hearing of any such suit which may be pending before it.

(2) Between the dates referred to in sub-section (1), all suits of the nature therein described shall be filed before or transferred to an officer appointed by the Lieutenant-Governor under section 2 of the Sonthal Parganas Act, 1855, [2] or section 10 of this Regulation, according as the Lieutenant-Governor may from time to time direct; and such officer shall hear and, even though during the hearing the settlement may be declared to have been completed, determine them.

XXXVII of 1855.

[1] The word "Agra" has been substituted for the words "United Provinces"—see the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 2, *post*, p. 719.

[2] Printed *ante*, p. 575.

[3] As to what enactments are now in force in the Sonthal Parganas, see Vol. IV, Part IV.

[4] The ss. 5 and 5A here printed were substituted for the original s. 5 by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (III of 1908), s. 2, *post*, p. 841.

(Secs 51-6)

[1] 5A (1) Notwithstanding anything contained in section 5, when it appears to any officer empowered thereby to try any such suit to be transferred to the Civil Court, just and expedient that the suit or any issue arising therein should be tried by a Civil Court established under the Bengal, Agra and Assam Civil Courts Act, 1857, [2] which but for that section would have had jurisdiction to try the suit, he may, either on the prayer of the parties or of his own motion but subject to the control of the officers to whom he is subordinate, make a certificate to that effect and transfer the record, in whole or in part, to such Court.

(2) On receipt of any such certificate and on payment of such court fees as would have been payable if the suit had been originally filed in the Court (if the said fees have not already been paid), the Court shall proceed to hear and determine such suit or issue as if the suit had been originally instituted therein.

(3) Any issue so transferred shall be dealt with, and shall be charged with the court fees, as if it were a separate suit.

(4) The decision of the said Court in any such suit or issue shall be deemed to be a decree within the meaning of section 2 of the Code of Civil Procedure, [3] and shall be carried into effect in the manner provided by law for the execution of decrees of such Court.

(5) Every such decision, and every decision given in appeal therefrom, shall be certified by the said Court to the officer by whom the certificate mentioned in sub-section (1) was made or to such officer as the Lieutenant Governor may appoint in this behalf, and its purport, so far as relevant, shall thereupon be entered in the record of rights.

B All Courts having jurisdiction in the Sonthal Parganas shall observe the following rules relating to usury, namely:—

(a) interest on any debt or liability for a period exceeding one year shall not be decreed at a higher rate than two per cent per mensem, notwithstanding any agreement to the contrary, and no compound interest arising from any intermediate adjustment of account shall be decreed;

(b) the total interest decreed on any loan or debt shall never exceed one-fourth of the principal sum, if the period be not more than one year, and shall not in any other case exceed the principal of the original loan.

[1] Section 5A is inserted in the Bengal, Agra and Assam Civil Courts Act, 1857, by the Bengal, Agra and Assam Civil Courts Amendment Act, 1872, section 2 of the Code of Civil Procedure, 1859, section 2 of the Code of Civil Procedure, 1859, section 2 of the Code of Civil Procedure, 1859.

(Secs. 7-11.)

[¹] [*Explanation*.—The expression “intermediate adjustment of account” in clause (a) of this section means any adjustment of account which is not final, and includes the renewal of an existing claim by bond, decree or otherwise when, without the passing of fresh consideration, the original claim is increased by such renewal.

[¹] [*Illustration*.—A bond is given for Rs. 75, of which Rs. 25 are interest. Unless the obligee can prove to the satisfaction of the Court that he gave such consideration for the bond as rendered the transaction fair and equitable, of the Rs. 75, Rs. 50 only will bear interest, and the limit of the claim on the bond will be Rs. 100.]

7. Agreements between cultivators or headmen of villages and the persons to whom rent is payable by them, respecting such rent or regulating their respective rights in the land for which such rent is payable, shall not be liable to any stamp.

8. The Court-fees Act, 1870,^[2] shall not be applicable to any suit or other proceeding before any officer making a settlement * * * * [³].

9. The Lieutenant-Governor may [⁴] [from time to time], by notification in the Calcutta Gazette declare [⁵] that a settlement shall be made of the whole or any part of the Sonthal Parganas for the purpose of ascertaining and recording the various interests and rights in the lands.

10. The Lieutenant-Governor may appoint the officers by whom the settlement is to be made, and may invest any officer or officers with the control over them by way of appeal and revision, and may make rules for the procedure of such officers in the investigation into rights in the land and the hearing of suits, and generally for the guidance of such officers.

The Lieutenant-Governor may reserve to himself an ultimate power of revision in respect of any cases decided in any Settlement Court.

11. Except as provided in section [25A], [⁶] no suit shall lie in any Civil Court regarding any matter decided by any Settlement Court under

[¹] This *Explanation* and *Illustration* were added to s. 6 by the Sonthal Parganas Justice Regulation, 1893 (V of 1893), s. 24, *post*, p. 830.

[²] Printed in the General Acts, 1868-78, Ed. 1909, p. 102.

[³] The words “or before any officer appointed under Act XXXVII of 1855, and regarding any matter which he is authorized to adjudicate in anticipation of settlement under s. 26 of this Regulation” were repealed by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (III of 1908), s. 3, *post*, and are omitted.

[⁴] These words in square brackets in s. 9 were inserted by the Sonthal Parganas Rent Regulation, 1886 (II of 1886), s. 4, *post*, p. 812.

[⁵] As to the apportionment of expenses when a declaration is made under s. 9 of this Regulation, see the Sonthal Parganas Settlement Regulation, 1904 (II of 1904), *post*, p. 835.

[⁶] The figures and letter “25A” were substituted for the figures “25” by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (III of 1908), s. 4, *post*, p. 842.

Exemption
of agree-
ments from
stamp duty.

Court-fees
Act not ap-
plicable to
certain suits.

Power to
order
settlement.

Power to
appoint
Settlement-
officers.

Bar to juris-
diction of
Civil Courts.

(Secs. 12-13.)

these rules; but the decisions and orders of the Settlement Courts made under these rules, regarding the interests and rights above mentioned, shall have the force of a decree of Court.

12. The Settlement-officers shall have power to inquire into, to decide and to record the rights of the *zamindars* and other proprietors, the rights of the tenants or *raiyats*, the rights of the *mdnjhts* or other headmen as against both the proprietors and the tenants, and also any other landed rights to which, by the law or custom of the country or of any tribe, any person may have legal or equitable claim: Inquiry in
landed
rights.

Provided that no claim shall be heard to any rights or interests of which the claimant has not held possession either himself or through persons from whom he claims at some time since the first day of January, 1859.

13. The record-of-rights to be prepared by a Settlement-officer shall show the nature and incidents of each right and interest held by each class of occupiers or owners in a village; or if need be, of each individual owner, occupier or headman in a village. Form of
record of
rights.

[1] [For every village shall be drawn up a paper setting forth the custom of the village or tribe in regard to the following facts:—

- (a) the existence of the office of *mdnjht* or other village headship, and the duties and emoluments of each headman, and the customs of succession to the headship by inheritance, election or otherwise;
- (b) the removal or suspension of a headman for misconduct, and the appointment or election to a vacant headship;
- (c) the devolution of the lands held by proprietors or under-proprietors or headman or cultivated by *raiyats*, any custom contrary to the ordinary Hindu or Muhammadan law being noted;
- (d) the tenure of houses in the village, and the payment of ground-rents and dues by non-cultivating residents;
- (e) the duties and dues of village-watchmen and other village-servants, and their succession to, and removal from, office;
- (f) the management and usufruct of the waste-land and other matters relating to the internal arrangement of villages;

and the said paper shall be deemed to form part of the record of rights.]

[1] These clauses in square brackets were added to the Rural Pergana Settlement (Amendment) Regulation, 1911 (III of 1911), s. 2, part, p. 232.

(Secs. 14-17.)

Notice when
record-of-
rights about
to be
prepared.

14. The Settlement-officer shall give due notice to the people of a village for which he is about to prepare a record-of-rights, so that all persons interested may bring forward their claims either in writing or by verbal application.

But the Settlement-officer shall inquire into, settle and record all rights in, or claims to, the lands of a village of which he is preparing a record-of-rights, even though such claims or rights may not be urged by the parties interested.

Demarcation
of excess
waste.

15. The Settlement-officer shall demarcate and define the boundaries of each village, and when doing so, he may exclude from such village any large area of waste or forest which may be beyond the reasonable requirements of the village:

Provided that no block of waste-land or forest of which the people of the village have hitherto had the use shall be excluded from such village if before such exclusion one-third of the total area of the village is cultivated or is fallow in due course of agricultural rotation, according to the practice of the country.

The exclusion of any waste-land from any village under this provision shall not affect any proprietary rights in the land, but such rights shall remain intact.

Review of
decisions
regarding
rights of
village head-
men.

16. Any decision regarding the rights of the *mánjhís* or other village-headmen, passed by any officer appointed under Act XXXVII of 1855,^[1] which may on due inquiry be found by the Settlement-officer to have been passed under a misapprehension as to the laws in force in the Sonthal Parganas, or without sufficient inquiry into, and regard for, the customs of the country and of the people, may be reviewed and modified by such Settlement-officer.

Mánjhís or
village
headmen.

17. In deciding the status, rights and claims of *mánjhís* or other village-headmen, the Settlement-officer shall have regard to the following rules:—

(a) Any *mánjhí* or other headman of a village who may have lost his office, or the management of his village, for whatever cause, or in whatever manner, on any date after the thirty-first December, 1858, shall be eligible for reinstatement in such headship, and in the lease or management of the village, if he has a fair and equitable claim thereto:

(b) No claim to be recorded as *mánjhí* or headman with an occupancy-right in the lease or management of a village shall be conclusively shut out by reason of the claimant having been described as a *mustájr* or farmer in any deed to which such claimant may have been a party:

[1] The Sonthal Parganas Act, 1855. It is printed, ante, p. 373.

(See 1b)

(c) If the rent now payable by any *mānjhit* or headman of a village appear to the Settlement-officer inequitable, by reason that such person has rights independent of contract, or that he was not in a position fairly and freely to contract, the Settlement officer may modify and abate such rent and fix a fair and equitable rent. If the rent appears to the Settlement officer to be too low, he may enhance such rent either immediately or prospectively on the termination of any existing agreement. The rent payable by any *mānjhit*, farmer or other headman of a village shall be determined on a consideration of the rates of rent payable in the neighbourhood and of the number of ploughs at work in the village, and of such other matters as may appear to the Settlement-officer to afford ground for an equitable decision. If necessary, the cultivated and uncultivated land in such village may be measured.

18. In deciding the status, rights and claims of *raiyats* or occupiers the Settlement officer shall have regard to the following rules — Rights of
raiyats or
cultivators.

(a) Any *raiyat* who may, either himself or through persons from whom he inherits, have held fields in a village for a period of twelve years shall be deemed to have occupancy rights in such fields.

(b) Any *raiyat* who, having possessed a right of occupancy or an equitable claim to occupancy, has lost possession of his land or any portion of his land since the thirty first day of December, 1858, may claim to be replaced in possession of such land and to be recorded as possessing occupancy rights therein if in the opinion of the Settlement officer he is justly entitled thereto.

(c) Any *raiyat* who has exchanged fields for other fields in the same village shall be held to have acquired an occupancy right in the fields taken in exchange in the same manner as if no exchange had taken place.

(d) Where *raiyats* holding lands under a *talukdar* or other lord in an of a village pay their share of the village rent according to any fixed custom or proportion, or where the share of rent payable by each *raiyat* is fixed annually or periodically by the village officers or in any other way, the existence of such custom shall be recorded.

(e) When the *raiyats* of any village pay rent either direct to the proprietor or to his agent, or to any factor, or to a *malguzar*, the Settlement officer shall record such rents if they are fair and equitable. If such rents appear to the Settlement-officer to be unfair and inequitable, he shall inquire into and shall rectify such rents, and he may also settle the settlement of rents either according to the number of ploughs owned by each *raiyat* or according to the area of the cultivated land.

(Secs. 19-25.)

held by him or in any other manner which may be customary and equitable.

19. [*Term for rents.*] *Rep. by the Sonthal Parganas Rent Regulation, 1886 (II of 1886), s. 5.*

20. In adjusting rents as between proprietors and *mánjhís* or other headmen and between proprietors, farmers or headmen, and *raiyats*, the Settlement-officer may, in connection with other circumstances, have regard to the agricultural skill and habits of life of the class or tribe to which the rent-payers may belong.

21. In any case in which the headmen or the *raiyats* or the persons through whom they claim reclaimed the land from forest or waste, regard shall be had to such fact in settling the rents.

22. The Settlement-officer shall decide, and shall enter in the village record-of-rights, the several instalments of yearly rent and the dates on which such instalments shall be payable by the *raiyats* and by the *mánjhís* or headmen.

If the number and dates of the existing instalments press hardly upon the people of any village, the Settlement-officer shall have power to reduce the number and alter the dates of such instalments.

The amount and dates of the instalments shall remain unaltered until otherwise ordered by the Lieutenant-Governor.

23. [*Record of village customs.*] *Rep. by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (III of 1908).*

24. After the Settlement-officer shall have made the record-of-rights for any village, he shall notify and publish the contents of such record to the persons interested by posting it conspicuously in the village and otherwise in such manner as may be convenient.

Any person interested shall thereupon be allowed to bring forward[¹] [in the Settlement Courts, within a period of six months from the date of publication of such record-of-rights] any objection he may desire to make to any part of such record; and the objection so made shall be inquired into and disposed of by a decision in writing under the hand of the officer presiding in the Court * * * * * [²].

[³] 25. (1) After a period of six months from the date of the publication of the record-of-rights of any village, such record shall be conclusive

[¹] The words in square brackets were substituted for the words "in the Original or Appellate Settlement Courts" by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (III of 1908), s. 8 (a), *post*, p. 843.

[²] The words "before which such objection may be urged or brought on appeal or otherwise" were repealed by s. 8 (b) of the same Regulation, and are omitted.

[³] The ss. 25 and 25A here printed were substituted for the original s. 25 by s. 9 of the same Regulation.

Special considerations in adjusting rents.

Settlement of rent of land reclaimed from forest or waste. Instalments of rent.

Publication of record-of-rights.

Objections against such record.

Record to be final after six months' publications.

(Sec. 25A.)

proof of the rights and customs therein recorded, other than the rights mentioned in section 25A, except so far as concerns entries in such record regarding which objections by parties interested may still be pending in the Original or Appellate Courts, or may still be open to appeal.

(2) Notwithstanding anything contained in sub-section (1), the Settlement-officer may, at any time before the settlement is declared by a notification in the Calcutta Gazette to have been completed,—

(a) inquire into and correct any material error in such record; and

(b) revise any order or decision passed by himself or by an Assistant Settlement-officer:

Provided that no such order or decision shall be so revised where any order passed by the Commissioner is likely to be affected by such revision, or where an appeal from such order or decision is pending before the Commissioner:

Provided, further, that no material error shall be corrected and no decision or order shall be revised, until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(3) When a record-of-rights has become final, or any objection to any entry in a record-of-rights has been finally disposed of in the Settlement Courts, and when all final decisions and orders, including such as may have been passed on revision as provided in sub-section (2) have been correctly embodied therein, such record shall not, until a fresh settlement is made or a new table of rates and rent-rolls are prepared, be re-opened without the previous sanction of the Lieutenant-Governor. But in case of the discovery of material error, it shall be lawful for the Lieutenant-Governor to direct that the record of any village shall be revised.

[25A. Where only the rights of *zamindars* and other proprietors as between themselves are concerned, a suit may, unless it is barred by section 13 of the Code of Civil Procedure,^[1] be brought in a Court established under the Bengal, Agra and Assam Civil Courts Act, 1857,^[2] to contest the finding or record of the Settlement-officer, within three years from the date of the publication of the record-of-rights, or of the final order of the Revenue Court. But no such suit shall be brought in any Court after the expiration of three years from such date.

[1] Section 25A is reproduced from section 25A, Code.

[2] The reference to s. 13 of Act XIV of 1902 should now be taken to be made to s. 13 of the Code of Civil Procedure, 1908 (Act V of 1908) and s. 13 of the latter.

[3] Printed, vol. 1, p. 124.

(Secs. 26-28.)

If in any such suit it is found that the finding of the Settlement-officer is erroneous, the record shall be amended accordingly.

Court-fees in
suits contest-
ing finding of
the Settle-
ment-officer.

[¹] 26. Where the claim in any suit of the nature described in section 25 was included in any plaint on which court-fees have been paid, and the suit, having been transferred under section 5, has been heard and determined by a Settlement-officer, the fees so paid shall be taken into account in determining the fee chargeable in respect of such suit.

Transfer of
*raiya*s
rights.

[¹] 27. (1) No transfer by a *raiya*t of his right in his holding or any portion thereof, by sale, gift, mortgage, lease or any other contract or agreement, shall be valid unless the right to transfer has been recorded in the record-of-rights, and then only to the extent to which such right is so recorded.

(2) No transfer in contravention of sub-section (1) shall be registered, or shall be in any way recognized as valid by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.

(3) If at any time it comes to the notice of the Deputy Commissioner that a transfer in contravention of sub-section (1) has taken place, he may, in his discretion, evict the transferee and either restore the transferred land to the *raiya*t or any heirs of the *raiya*t who has transferred it, or re-settle the land with another *raiya*t according to the village custom for the disposal of an abandoned holding:

Provided—

- (a) being a proprietor, fails to repair and maintain any *khas*, in continuous cultivating possession for twelve years,
- (b) that he is given an opportunity of showing cause against the order of eviction, and
- (c) that all proceedings of the Deputy Commissioner under this section shall be subject to control and revision by the Commissioner.

Penalties.

[¹] 28. If any person,—

- (a) being a proprietor, fails to repair and maintain any *khas*, dykes, drains or tanks which he is bound, by any custom entered in the record-of-rights, to repair and maintain, or,
- (b) being a proprietor or a headman, exacts from any *raiya*t tolls, *abwabs*, *salami*, *kayali*, forced labour or the like, the exaction of which is forbidden by any such custom, or,
- (c) being a headman, fails to perform any of the prescribed police-duties, or,

[¹] The ss. 26, 27 and 28 here printed were substituted for the original s. 26 by the Sonthal Parganas Settlement (Amendment) Regulation, 1908 (III of 1908), s. 10, *post*, p. 844.

(Sec. 28. The Schedule.)

- (d) being a proprietor or a headman, fails to repair, with the assistance of the *rayats*, any dykes, drains, tanks, village-paths or boundary-marks which he and they are bound, by any custom entered in the record-of-rights, to repair, or fails to preserve any of the recorded camping or grazing grounds, or,
- (e) being a proprietor or a headman, fails to report to competent authority any transfer of village-land made in contravention of section 27, sub-section (f), or,
- (f) being a *rayat*, fails to assist the proprietor or headman in the repair of any village dykes, drains, tanks, paths or boundary-marks which he is bound, by any custom entered in the record-of-rights, to assist the proprietor or headman in repairing, or encroaches on any of the recorded camping or grazing grounds, or,
- (g) being a proprietor, headman or *rayat*, cuts down any village-trees which he is forbidden by any such custom to cut, or otherwise uses, or prevents the use of, village-forest in contravention of any such custom,

he shall be liable to a fine which may extend to fifty rupees, and in the case of a continuing offence, to a further fine not exceeding one rupee for each day during which the offence continues.

THE SCHEDULE [1]

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS.

(See Section 3.)

Year	Number	Short title or subject	Whole or part
1	2	3	4

Part I—Regulations of Bengal Code.

1773	I	The Bengal Permanent Settlement Regulation, 1773	The whole
"	VIII	The Bengal Permanent Settlement Regulation, 1773	Part
"	XIX	Non-Residence of Proprietors	Part

[1] This Schedule was introduced by the Bengal Settlement Regulation, 1872 (III of 1872) p. 4 of 1872.

*(The Schedule.)*ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.

Part I.—Regulations of the Bengal Code—contd.

1793	XXXVII	Bādshāhī Lākhirāj Grants . . .	The whole.
"	XXXVIII	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.	Ditto.
1798	I	Conditional Sales . . .	Ditto.
1800	VIII	Pargana Register . . .	Section 19.
1801	I	Realization of Revenue . . .	The whole.
1804	X	The Bengal State Offences Regula- tion, 1804.	Ditto.
1806	XI	The Bengal Troops Transport and Travellers Assistance Regulation, 1806.	Ditto.
"	XVII	Interest; Redemption . . .	Ditto.
1810	XX	Military Fāzārs . . .	Ditto.
1812	V	Collection of Land-Revenue . . .	Ditto.
"	XI	The Bengal Foreign Immigrants Regulation, 1812.	Ditto.
"	XVIII	Leases by Proprietors; Partitions	Ditto.
1814	XXIX	Ghatwālī Mahāls . . .	Ditto.
1817	XII	Pātwarīs . . .	Ditto.
1818	III	The Bengal State Prisoners Regu- lation, 1818.	Ditto.
1819	I	Kánúngos and Patwārīs . . .	Ditto.
"	II	Resumption of Revenue . . .	Ditto.
"	VIII	The Bengal Patnī Taluks Regula- tion, 1819.	Ditto.
1820	I	The Bengal Patnī Taluks Regula- tion, 1820.	Ditto.
1823	VII	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.	Ditto.

(The Schedule.)

ENACTMENTS IN FORCE IN THE SONTIAL PARAGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.

Part I.—Regulations of the Bengal Code—concl'd.

1823	VI	The Bengal Troops Transport Regulation, 1823.	The whole.
"	XI	The Bengal Alluvion and Diluvion Regulation, 1823.	Ditto.
"	XIII	Kanungos	Ditto.
"	XIV	Lakshiraj Tenures	Ditto.
1829	XVII	The Bengal Sati Regulation, 1829	Ditto.

Part II.—Acts of the Governor General of India in Council.

1820	XXI	Zilas	The whole.
1837	IV	The Property in Land Act, 1837 .	Ditto.
1841	XII	Revenue Arrears	Section 2.
1843	V	The Indian Slavery Act, 1843 .	The whole.
1847	IX	Assessment of new lands	Ditto.
1848	XX	Enforcement of attendance of land holders.	Ditto.
1850	XII	The Public Accountants' Defaults Act, 1850	Ditto.
"	XVIII	The Judicial Officers Protection Act, 1850	Ditto.
"	XXI	The Caste Disabilities Removal Act, 1850.	Ditto.
"	XXV	The Forfeited Deposits Act, 1850	Ditto.
"	XXXIV	The State Prisoners Act, 1850	The whole.
"	XXXVII	The Police Servants (Regulation) Act, 1850	Ditto.
1851	VIII	The Indian Tolls Act, 1851 .	Ditto.
1852	II	The Landholders' Public Charges and Duties Act, 1852	Ditto.

[1] The reference to Act XXXIII of 1850 (Police Tenures), which was repealed by the Amendment Act, 1862 (1 of 1862), is omitted.

(The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.

Part II.—Acts of the Governor General of India in Council—contd.

1853	VI	The Rent Recovery Act, 1853	The whole.
1855	XII	The Legal Representatives' Suits Act, 1855.	Ditto.
"	XIII	The Indian Fatal Accidents Act, 1855.	Ditto.
"	XXIV	The Penal Servitude Act, 1855	Ditto.
"	XXXVII	Sonthal Parganas	Sections 1, 2 and 3.
1856	XI	The European Deserters Act, 1856	The whole.
"	XV	The Hindu Widows' Re-marriage Act, 1856.	Ditto.
1857	X	Sonthal Parganas	Ditto.
"	XIII	Opium	Ditto.
1858	III	The State Prisoners Act, 1858	Ditto.
"	XXXI	Alluvion	Ditto.
"	XXXV	The Lunacy (District Courts) Act, 1858.	Ditto.
"	XXXVI	The Indian Lunatic Asylums Act, 1858.	Ditto.
1859	V	Ghatwali Lands, Birbhum	Ditto.
"	XI	Sales of Land for Arrears of Revenue.	Ditto.
"	[¹]		
"	XIV	Summary Dispossession	Section 15. ^[2]
1860	IX	The Employers and Workmen (Disputes) Act, 1860.	The whole.
"	XLV	The Indian Penal Code	Ditto.

[¹] Act XIII of 1859 (the Workmen's Breach of Contract Act, 1859) is in force in the Sonthal Parganas—see Notification No. 449J., dated the 21st February, 1911, in Calcutta Gazette, 1911, Part I, p. 282.

[²] Section 15 of Act XIV of 1859 will be repealed by the Specific Relief Act, 1877 (I of 1877), if that Act is declared in force in the Sonthal Parganas.

(The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year	Number	Short title or subject.	Whole or part.

Part II.—Acts of the Governor General of India in Council—*contd.*

1861	V	The Police Act, 1861	The whole.
[1]	[1]		
[2] 1863	XVI	The Fines (Spirits) Act, 1863	Ditto.
1864	III	The Foreigners Act, 1864	Ditto.
"	[2] I	The Whipping Act, 1864	Ditto.
"	XV	The Indian Trials Act, 1864	Ditto.
1865	III	The Carriers Act, 1865	Ditto.
"	X	The Indian Succession Act, 1865	Ditto.
1866	XMI	The Native Converts Marriage Dissolution Act, 1866	Ditto.
1867	XXV	The Press and Registration of Books Act, 1867	Ditto.
1869	IV	The Indian Divorce Act, 1869	Ditto.
"	V	The Indian Articles of War	Ditto.
1869	XX	The Indian Volunteers Act, 1869	The whole.
1870	VII	The Court Fees Act, 1870	Ditto.
"	XX	The Court Fees Act (1870) Amendment Act, 1871	Ditto.
"	XXI	The Hindu Wills Act, 1870	Ditto.
"	[3] XVIII	The Indian Courts Act, 1871	Ditto.
"	XXVII	The Indian Penal Code Amendment Act, 1871	Ditto.

[1] Act VI of 1861 (The Stage Carriage Act, 1861) has been declared inoperative in the North-Western Provinces by Notification No. 1831, dated 11th December 1871, A. D. 1301, G. O. No. 171, Pt. 1, p. 1.

[2] Act VI of 1863 is repealed by Act V of 1869, which has been declared inoperative in the North-Western Provinces.

[3] Act VI of 1871 is repealed by the Act No. 1 of 1872 (IV of 1871) which extends to the North-Western Provinces.

[4] The provisions of Act XV of 1870 (The Court Fees Act, 1870) which were amended by Act No. 1 of 1872 (I of 1872) have been repealed by Act No. 1 of 1872 (I of 1872).

[5] Act VIII of 1871 (The Indian Courts Act, 1871) has been declared inoperative in the North-Western Provinces by Notification No. 1831, dated 11th December 1871, A. D. 1301, G. O. No. 171, Pt. 1, p. 1.

(The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.

Part II.—Acts of the Governor General of India in Council—contd.

1890	VIII	The Guardians and Wards Act, 1890.	The whole.
"	IX	The Indian Railways Act, 1890 .	Ditto.
"	X	The Press and Registration of Books Act (1867) Amendment Act, 1890.	Ditto.
"	XI	The Prevention of Cruelty to Animals Act, 1890.	Ditto.
"	XIII	The Excise (Malt Liquors) Act, 1890.	Sections, 1, 6, 7 and 8 (1)
"	XVI	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890.	The whole.
"	[*]XVIII	The Indian Emigration Act (1887) Amendment Act, 1890.	Ditto.
1891	I	The Cattle-drawpass Act (1871) Amendment Act, 1891.	The whole, except sections 10, 11 and 13
"	II	The Indian Christian Marriages Act (1872) Amendment Act, 1891.	The whole.
"	III	The Indian Evidence Act (1872) Amendment Act, 1891.	Ditto.
"	X	The Indian Criminal Law Amendment Act, 1891.	Ditto.
"	XII	The Betting and Amusements Act, 1891.	Ditto.
"	XVIII	The Bankers' Books Evidence Act, 1891.	Ditto.
1892	II	The Amendment Act, 1892.	Ditto.
"	IV	The Amendment Act, 1892.	Ditto.

(The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.
1892	V	The Bengal Military Police Act, 1892.	The whole.
"	[1] VI	<i>The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.</i>	<i>Ditto.</i>
"	X	The Government Management of Private Estates Act, 1892.	<i>Ditto.</i>
1893	I	The Bankers' Books Evidence Act, 1893.	<i>Ditto.</i>
"	"	" " " " " "	"[1]
1894	I	The Land Acquisition Act, 1894.	The whole.
"	III	The Indian Criminal Law Amendment Act, 1894.	<i>Ditto.</i>
"	"	" " " " " "	"[1]
1894	VIII	The Indian Tariff Act, 1894.	The whole.
"	IX	The Prisons Act, 1894.	<i>Ditto.</i>
1895	III	The Indian Criminal Law Amendment Act, 1895.	<i>Ditto.</i>
"	VIII	The Police Act (1861) Amendment Act, 1895.	<i>Ditto.</i>
1896	[1] I	<i>The Indian Emigration Act (1853) Amendment Act, 1896.</i>	<i>Ditto.</i>
"	III	The Indian Tariff Act (1894) Amendment Act, 1896.	<i>Ditto.</i>
"	[1] I	<i>The Foreign Jurisdiction and Extradition Act (1872) Amendment Act, 1896.</i>	<i>Ditto.</i>

[1] The effect of Acts V and IX of 1894, which have been declared to be in force in the Sonthal Parganas, is to repeal the whole of Act VI of 1892.

[2] The references to Acts VII of 1893 (Indian Emigration) and VII of 1894 (Prisons), which were repealed by the Amending Act, 1903 (I of 1903), are omitted.

[3] Act I of 1896 is repealed by the Indian Emigration Act, 1906 (XVII of 1906), which has been declared to be in force in the Sonthal Parganas.

[4] Act I of 1896 is repealed by the Indian Extradition Act, 1903 (XV of 1903), which extends to the Sonthal Parganas.

(The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year.	Number.	Short title or subject.	Whole or part.
<i>Part II.—Act of the Governor General of India in Council—contd</i>			
1896	VI	The Indian Penal Code Amend ment Act, 1896.	The whole.
"	IX	The Indian Railways Act (1890) Amendment Act, 1896.	Ditto.
"	X	The Indian Volunteers Act Amend- ment Act, 1896.	Ditto.
1897	III	The Epidemic Diseases Act, 1897.	Ditto.
"	VIII	The Reformatory Schools Act, 1897.	Ditto.
"	X	The General Clauses Act, 1897 .	Ditto.
1898	III	The Lepers Act, 1898 . .	Ditto.
"	IV	The Indian Penal Code Amend- ment Act, 1898.	Ditto.
"	[¹]V	The Code of Criminal Procedure, 1898.	Ditto.
"	VI	The Indian Post Office Act, 1898.	Ditto.
"	IX	The Live-stock Importation Act, 1898.	Ditto.
1899	II	The Indian Stamp Act, 1899 .	Ditto.
"	IV	The Government Buildings Act, 1899.	Ditto.
"	V	The Indian Evidence Act, 1899 .	Ditto.
"	VIII	The Indian Petroleum Act, 1899 .	So much as relates to dangerous petroleum and the importation of petroleum.
"	X	The Carriers Act, 1899 . .	The whole.
"	XI	The Court-fees Amendment Act, 1899.	Ditto.
"	XII	The Currency Notes Forgery Act, 1899.	Ditto.

[¹] As to the application of Act V of 1898, see also the Sonthal Parganas Justice Regulation, 1893 (V of 1893), s. 4, as amended by Reg. III of 1899, s. 2.

(The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year	Number.	Short title or subject.	Whole or part.

Part II.—Acts of the Governor General of India in Council—concl'd.

1899	[1]XIII	The Glanders and Farcy Act, 1899	The whole.
"	XIV	The Indian Tariff Amendment Act, 1899	Ditto.
[1]	[1]		

Part III.—Acts of the Lieutenant Governor of Bengal in Council.

1862	III	Sales of land for Arrears of Revenue (amending Act XI of 1859)	The whole.
"	VII	Presumption of Revenue free Lands.	Ditto.
"	"	" " " " " " " "	" [1]
1861	IV	Alterations of Limits of Districts (amending Act XXI of 1830).	The whole.
"	VII	Salt	Ditto.
1863	IV	Inoculation	Ditto.
"	VIII	Sale of Under tenures.	Ditto.
1860	III	Witnesses before Legislative Council.	Ditto.
1867	II	Gambling	Ditto.
1864	IV	Assessment of New Lands (amending Act IX of 1847).	Ditto.
"	VII	Recovery of Arrears of Land Revenue.	Ditto.
1869	VII	Police	Ditto.
1871	II	Sales of Land for Arrears of Revenue (amending Bengal Act VII of 1864).	Ditto.

[1] As to the application of Act XIII of 1899 to all districts in Bengal, see Section 8, II, dated the 24th January, 1913, in Calcutta Gazette, 1910-12, L. p. 42.

[2] For a list of later Acts of the Governor General in Council relating to the Sonthal Parganas, see Appendix A, part, pp. 2-3.

[3] The entire regulation Bengal Act VIII of 1862 (Zamindari District was removed from the Regulating and Amending (Police Courts) Act, 1867 (IV of 1867), and is omitted.

(The Schedule.)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*conold.*

1	2	3	4
Year.	Number	Short title or subject.	Whole or part.

Part III.—Acts of the Lieutenant-Governor of Bengal in Council.—conold.

1855	I	The Bengal Ferries Act, 1855	The whole.
1856	III	Municipalities (amending Bengal Act III of 1854)	Ditto.
[¹]	[²]		*[¹]
1854	IV	Municipalities (amending Bengal Act III of 1854)	The whole.
			*[²]
1893	I	The Public Demands Recovery Act, 1893.	The whole.
			*[³]
1896	II	Municipalities (amending Bengal Act III of 1854)	The whole.
1897	V	The Estates Partition Act, 1897	Ditto.
1899	I	The Bengal General Clauses Act, 1899	Ditto.
[⁴]	[⁵]		

Part IV.—Regulations made under the Government of India Act, 1870.

1872	III	The Sonthal Parganas Settlement Regulation	The whole.
1880	II	The Sonthal Parganas Rent Regulation, 1880	Ditto.
			*[¹]
1893	V	The Sonthal Parganas Justice Regulation, 1893.	The whole
[²]	[³]		

[¹] The reference to Ben. Act I of 1899 (Inland Emigration) which was repealed by the Amending Act, 1901 (I of 1901), is omitted.

[²] Ben. Act II of 1892 (the Private Fisheries Protection Act, 1892) is in force in the Sonthal Parganas—see Notification No. 1254-L.R., dated the 17th March, 1900, in Calcutta Gazette, 1900, Pt. I, p. 674.

[³] The references to Ben. Acts VI of 1891 (Mandi) and V of 1892 (Leprosy), which were repealed by the Amending Act, 1901 (I of 1901), are omitted.

[⁴] For a list of later Acts of the Lieutenant-Governor of Bengal in Council in force in the Sonthal Parganas, see Appendix II, *post*, p.

[⁵] The reference to Regulation III of 1861 (Sonthal Parganas Law), which was repealed by the Amending Act, 1901 (I of 1901), is omitted.

[⁶] For a list of later Regulations in force in the Sonthal Parganas, see Appendix III, *post*, p. 107.

(The Schedule.)

APPENDIX I.—List of Acts of the Governor General of India in Council, later than Act XIV of 1899, which are in force in the Sonthal Parganas.

1	2	3	4
Year.	Number.	Short title.	Reference.
1899	[¹]XVII	The Indian Registration (Amendment) Act, 1899.	See Notification No. 606J.D., dated the 25th May, 1901, in Calcutta Gazette, 1901, Pt. I, p. 673.
"	XVIII	The Land Improvement Loans (Amendment) Act, 1899.	
1900	I	The Indian Articles of War (Amendment) Act, 1900.	
"	III	The Prisoners Act, 1900 . . .	See Act III of 1900, s. 1(2).
"	[²]V	The Whipping Act, 1900 . . .	See Act V of 1900, s. 1(2).
"	[³]X	The Indian Census Act, 1900 . . .	See Act X of 1900, s. 1(2).
"	[⁴]XI	The Indian Limitation Amendment Act, 1900.	See Notification No. 606J.D., dated the 25th May, 1901, in Calcutta Gazette, 1901, Pt. I, p. 673.
"	XII	The Bankers' Books Evidence Act, 1900.	
1901	II	The Indian Tools (Army) Act, 1901	See Act II of 1901, s. 1(2).
"	V	The Indian Forest (Amendment) Act, 1901.	See Notification No. 1395J, dated the 17th February, 1902, in Calcutta Gazette, 1902, Pt. I, p. 310.
"	VI	The Assam Labour and Emigration Act, 1901.	See Act VI of 1901, s. 1 (2)(a).
"	VII	The Native Christian Administration of Estates Act, 1901.	See Notification No. 1395J., dated the 17th February, 1902, in Calcutta Gazette, 1902, Pt. I, p. 310.
"	VIII	The Indian Mines Act, 1900 . . .	See Act VIII of 1901, s. 1(2).
"	IX	The Indian Articles of War Amendment Act, 1901.	See Notification No. 1395J., dated the 17th February, 1902, in Calcutta Gazette, 1902, Pt. I, p. 310.
"	X	The Court-fee (Amendment) Act, 1901.	

[¹] Act XVII of 1899 is repealed by the Indian Registration Act, 1908 (XVI of 1908), which has been declared in force in the Sonthal Parganas.

[²] Act V of 1900 is repealed by the Whipping Act, 1909 (IV of 1909), which extends to the Sonthal Parganas.

[³] Act X of 1900 is spent.

[⁴] Act XI of 1900 is repealed by the Indian Limitation Act, 1908 (IX of 1908), which has been declared in force in the Sonthal Parganas.

(The Schedule.)

APPENDIX I.—List of Acts of the Governor General of India in Council, later than Act XIV of 1859, which are in force in the Santhal Parganas—contd.

1	2	3	4
Year	Number	Short title	Reference.
1902	V	The Administrators General and Official Trustees Act, 1902.	See Notification No. 11601, dated the 22nd February, 1903, in Calcutta Gazette, 1903, Pt. I, p. 225.
1901	I	The Repealing and Amending Act, 1901.	See Notification No. 8723, dated the 2nd February, 1901, in Calcutta Gazette, 1901, Pt. I, p. 227.
"	II	The Indian Post Office (Amendment) Act, 1901.	
"	(I) III	The Indian Electricity Act, 1901.	See Act III of 1902, s. 1(2)
"	VII	The Indian Works of Defence Act, 1901.	See Act VII of 1902, s. 1(2)
"	VIII	The Probate and Administration Act, 1901.	See Notification No. 8721, dated the 2nd February, 1901, in Calcutta Gazette, 1901, Pt. I, p. 227.
"	VI	The Indian Income tax (Amendment) Act, 1901.	
"	XII	The Indian Tolls (Amendment) Act, 1901.	See Act XIV of 1902, s. 1(2)
"	XIII	The Legats (Amendment) Act, 1901.	
"	XIV	The Indian Foreign Marriage Act, 1901.	See Act XV of 1902, s. 1(2)
"	XV	The Indian Extradition Act, 1901.	
1901	I	The Police Act, 1901.	See Notification No. 10531 D, dated the 11th May, 1901, in Calcutta Gazette, 1901, Pt. I, p. 274.
"	V	The Indian Official Secretaries (Amendment) Act, 1901.	
"	VII	The Ancient Monuments Preservation Act, 1901.	See Act VII of 1904, s. 1(2)
"	X	The Co-operative Societies Act, 1901.	See Notification No. 10531 D, dated the 11th May, 1901, in Calcutta Gazette, 1901, Pt. I, p. 274.
"	(I) III	The Indian Forests (Amendment) Act, 1901.	

(I) Act III of 1902 is repealed by the Indian Electricity Act, 1902 (IX of 1902), which extends to the Santhal Parganas.

(I) Act XII of 1901 is repealed by the Indian Extradition Act, 1901 (XVII of 1901), which has been declared to be in force in the Santhal Parganas.

(The Schedule.)

APPENDIX I.—List of Acts of the Governor General of India in Council, later than Act XIV of 1899, which are in force in the Sonthal Parganas—contd.

1	2	3	4
Year.	Number	Short title.	Reference.
1904	XV	The Indian Stamp (Amendment) Act, 1904.	See Act XV of 1904, s. 1(2).
1905	I	The Local Authorities Loan (Amendment) Act, 1905.	See Notification No. 1278J., dated the 22nd February, 1906, in Calcutta Gazette, 1906, Pt. I, p. 334.
"	[¹]III	The Indian Paper Currency Act, 1905.	See Act III of 1905, s. 1 (2).
"	IV	The Indian Railway Board Act, 1905.	See Notification No. 1278J., dated the 22nd February, 1906, in Calcutta Gazette, 1906, Pt. I, p. 334.
"	V	The Indian Articles of War (Amendment) Act, 1905.	
"	VI	The Court-fees (Amendment) Act, 1905.	
1906	I	The Indian Tariff (Amendment) Act, 1906.	See Notification No. 1373J., dated the 22nd March, 1907, in Calcutta Gazette, 1907, Pt. I, p. 522.
"	III	The Indian Coinage Act, 1906	See Act III of 1906, s. 1(2).
"	V	The Indian Stamp (Amendment) Act, 1906.	See Notification No. 1373J., dated the 22nd March, 1907, in Calcutta Gazette, 1907, Pt. I, p. 522.
"	VIII	The Land Improvement and Agriculturists' Loans (Amendment) Act, 1906.	
1907	III	The Provincial Insolvency Act, 1907.	See Notification No. 849J.D., dated the 4th June, 1908, in Calcutta Gazette, 1908, Pt. I, p. 1082.
"	IV	The Repealing and Amending (Rates and Cesses) Act, 1907.	
"	V	The Local Authorities Loan (Amendment) Act, 1907.	
1908	V	The Code of Civil Procedure, 1908 :— sections 38 to 42 and 156, and rules 4 to 9 in Order XXI in the First Schedule ; the rest of the Code (only for the trial of suits referred to in section 10 of the Sonthal Parganas Justice Regulation, 1893).	See Notification No. 158J., dated the 11th January, 1909, in Calcutta Gazette, 1909, Pt. I, p. 45.

[¹] Act III of 1905 is repealed by the Indian Paper Currency Act, 1910 (II of 1910), which extends to the Sonthal Parganas.

(The Schedule.)

APPENDIX I.—List of Acts of the Governor-General of India in Council later than Act XIV of 1859, which are in force in the Sonthal Parganas—contd.

1	2	3	4
Year.	Number.	Short title.	Reference.
1905	VI	The Explosives Substances Act, 1905.	See Notification No. 3701 D, dated the 29th April, 1907, in Calcutta Gazette, 1907, Pt. I, p. 649.
"	VII	The Newspapers (Incitements to Offences) Act, 1905.	
"	IX	The Indian Limitation Act, 1908	See Notification No. 3095 D, dated the 23rd November, 1909, in Calcutta Gazette, 1909, Pt. I, p. 1646.
"	XIV	The Indian Criminal Law (Amendment) Act, 1909.	See Notification No. 3701 D, dated the 29th April, 1907, in Calcutta Gazette, 1907, Pt. I, p. 649.
"	XVI	The Indian Registration Act, 1909	See Notification No. 1605 D, dated the 19th July, 1909, in Calcutta Gazette, 1909, Pt. I, p. 914.
"	XVII	The Indian Emigration Act, 1909	See Notification No. 3479, dated the 26th September, 1910, in Calcutta Gazette, 1910, Pt. I, p. 1229.
1909	[1] II	The Indian Paper Currency (Amendment) Act, 1909.	See Act II of 1909, s. 1 (5).
"	IV	The Whipping Act, 1909 . . .	See Act IV of 1909, s. 1 (2).
1910	I	The Indian Press Act, 1910. . .	See Act I of 1910, s. 1 (7).
"	II	The Indian Paper Currency Act, 1910.	See Act II of 1910, s. 1 (5).
"	IX	The Indian Electricity Act. . .	See Act IX of 1910, s. 1 (5).
"	XVI	The Indian Census Act, 1910 . .	See Act XVI of 1910, s. 1 (5).
1911	I	The Opium (Amendment) Act, 1911.	See Notification No. 4914 dated the 31st November 1912, in B. & O. Gazette, 1912, Pt. II, p. 61.
"	II	The Indian Patent and Designs Act, 1911.	See Act II of 1911, s. 1 (5).
"	III	The Criminal Tribes Act, 1911 . .	See Notification No. 4914, dated the 31st November 1912, in B. & O. Gazette, 1912, Pt. II, p. 61.

[1] Act II of 1909 is repealed by the Indian Paper Currency Act, 1913 (II of 1913), which extends to the Sonthal Parganas.

(The Schedule.)

APPENDIX I.—*List of Acts of the Governor General of India in Council, later than Act XIV of 1899, which are in force in the Sonthal Parganas—concl'd.*

1	2	3	4
Year.	Number.	Short title.	Reference.
1911	VI	The Indian Tariff (Amendment) Act, 1911.	See Notification No. 4814, dated the 8th November, 1912, in B. & O. Gazette, 1912, Pt. II, p. 63.
"	VIII	The Indian Army Act, 1911	See Notification No. 4814, dated the 8th November, 1912, in B. & O. Gazette, 1912, Pt. II, p. 63.
"	IX	The Birth, Death and Marriages Registration (Amendment) Act, 1911.	See Notification No. 4814, dated the 8th November, 1912, in B. & O. Gazette, 1912, Pt. II, p. 63.
"	XII	The Indian Factories Act, 1911	See Act XII of 1911, s. 1 (3).
"	XIII	The Indian Christian Marriage (Amendment) Act, 1911.	See Notification No. 4814, dated the 8th November, 1912, in B. & O. Gazette, 1912, Pt. II, p. 63.
"	XIV	The Court-fees (Amendment) Act, 1911.	See Notification No. 4814, dated the 8th November, 1912, in B. & O. Gazette, 1912, Pt. II, p. 63.
"	XV	The Indian Forest (Amendment) Act, 1911.	See Notification No. 4814, dated the 8th November, 1912, in B. & O. Gazette, 1912, Pt. II, p. 63.
"	XVII	The Indian Airships Act, 1911.	See Act XVII of 1911, s. 1 (2).

APPENDIX II.—*List of Acts of the Lieutenant-Governor of Bengal in Council, later than Ben. Act I of 1899, which are in force in the Sonthal Parganas.*

1903	[¹]II	The Bengal Excise and Licensing (Amendment) Act, 1903.	See Notification No. 869J., dated the 2nd February, 1904, in Calcutta Gazette, 1914, Pt. I, p. 227.
1904	III	The Bengal Settled Estates Act, 1904.	See Notification No. 1056-J.D., dated the 11th May, 1905, in Calcutta Gazette, 1905, Pt. I, p. 878.
1906	I	The Bengal Court of Wards (Amendment) Act, 1906.	See Notification No. 1373 J., dated the 22nd March, 1907; in Calcutta Gazette, 1907, Pt. I, p. 522.
"	II	The Bengal Land Registration (Amendment) Act, 1906.	
"	III	The Bengal Disorderly Houses Act, 1906.	

¹] Bengal Act II of 1903 is repealed by the Bengal Excise Act, 1909 (Ben. Act V of 1909), which has been declared in force in the Sonthal Parganas.

(The Schedule.)

APPENDIX II.—List of Acts of the Lieutenant Governor of Bengal in Council, later than *Ben. Act I of 1899*, which are in force in the *Sonthal Parganas*—*concl'd.*

	2	3	4
Year	Number	Short title.	Reference
1899	V	The Bengal Excise Act, 1899	See Notification No. 3193J, dated the 23th November, 1899, in Calcutta Gazette, 1899, Pt. I, p. 1732
1910	IV	The Bengal Cess (Amendment) Act, 1910	See Notification No. 102LH, dated the 14th January, 1911, in Calcutta Gazette, 1911, Pt. I, p. 41

APPENDIX III.—List of Regulations, later than *Regulation V of 1893*, which are in force in the *Sonthal Parganas*

1899	III	The Sonthal Parganas Justice and Laws Regulation, 1899	See Reg. III of 1899
1909	[¹] III	The Sonthal Parganas Rural Police Regulation, 1909	See Reg. III of 1909, s. 1 (2)
1904	II	The Sonthal Parganas Settlement Regulation, 1904	See Reg. II of 1904
1907	III	The Sonthal Parganas Rent (Amendment) Regulation, 1907	See Reg. III of 1907
1908	III	The Sonthal Parganas Settlement (Amendment) Regulation, 1908	See Reg. III of 1908
1910	IV	The Sonthal Parganas Rural Police Regulation, 1910	See Reg. IV of 1910, s. 1 (2)

[¹] Regulation III of 1909 is repealed by the Sonthal Parganas Rural Police Regulation 1910 (Reg. IV of 1910), which extends to the Sonthal Parganas.

REGULATION 2 of 1886
(THE Sonthal PARGANAS RENT REGULATION, 1886)

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTION

1. Short title
[Commencement] *Repealed*,
Construction.
2. Definitions.

CHAPTER II

RENT.

Rule of general application throughout the Sonthal Parganas.

- 3 Mode of changing rents.

Adjustment of Rents under the Settlement Regulation

- 4 Power to order settlement exercisable from time to time under Regulation 3 of 1872.
- 5 *[Repealed]*
- 6 Term for which rent adjusted under Regulation 3 of 1872 remains fixed.

Determination of Rents under this Regulation in Settled Tracts

7. Power to apply for preparation of table of rates of rent.
8. Contents of application.
- 9 Power for Deputy Commissioner to reject application.
- 10 Submission of application by Deputy Comm^r as user to Comm^r.
- 11 Power for Commissioner to direct preparation of table of rates and rent roll.
- 12 Preparation of table of rates.
13. Preparation of rent roll.
- 14 Preliminary publication of table and roll.
- 15 Disposal of objections to table or roll.
16. Amendment of table or roll.
- 17 Final publication of table and roll.
18. Continuance of table and roll.
- 19 Commencement of operation of roll.
- 19A Application for enhancement of rent of village on ground of proprietor's improvement.

Determination of Rent under this Regulation in Unsettled Tracts

- 20 Application of sections 7 to 19 to unsettled lands.

Supplemental Provisions.

SECTION.

21. Employment of subordinate officers to prepare table-of-rates and rent-rolls.
22. Cost of proceedings.
23. Application by Subordinate-officer of table-of-rates to waste included by him in a village.

New Tenancies.

24. Regulation of rents of new tenancies.

Protection of Raiyats from Ejectment.

25. Exemption of *raiya*s from liability to ejectment except by order of Deputy Commissioner.

Acquisition of land for buildings and other purposes.

- 25A. Acquisition of land by proprietor of village for buildings and other purposes.

Appeal and Revision.

26. Appeal.
27. Revision.

CHAPTER III.

MISCELLANEOUS.

28. Amendment of section 25 of Regulation 3 of 1872.
29. Power of Lieutenant-Governor to order amendment of record-of-rights when table-of-rates and rent-roll are prepared.
30. Power to make rules.
31. Power to exclude land from operation of provisions regarding determination and adjustment of rent.

REGULATION 2 of 1886 [1]

(THE SONTHAL PARGANAS RENT REGULATION, 1886.)

(11th August, 1886)

A Regulation for the Determination of Rents in the Sonthal Parganas.

• • • • • [2]

Whereas it is expedient to provide that rents within the Sonthal Parganas shall not be changed except by the Settlement-officer in the course of settlement-proceedings under the Sonthal Parganas Settlement Regulation [2] or by the Deputy Commissioner in accordance with the procedure prescribed in this Regulation;

And whereas it is also expedient to amend the Sonthal Parganas Settlement Regulation [2] in manner hereinafter appearing;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Regulation may be called the Sonthal Parganas Rent Regulation, 1886.

(2) [Commencement]. *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

(3) It shall be read with, and be taken as supplementary to, the Sonthal Parganas Settlement Regulation.[2]

2. In this Regulation, unless there is something repugnant in the Definitions, subject or context,—

(1) "Commissioner" means the Commissioner of the Bhagalpur Division; and

[1] *Local Extent*—This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855), *ante*, *see* section 1 (2), of the Regulation. The Regulation is formally included in the Schedule of laws in force in these Parganas, *see ante*, p. 821.

[2] *Extent*—This Regulation is reprinted in the Sonthal Parganas Manual, 1893, pp. 37 to 43.

[3] *It may be amended by rules made under section 32, *see* the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Part V.*

[4] The portion of the preamble which was repealed by the Amending Act, 1903 (1 of 1903) is omitted.

[5] *Printed note*

(Secs. 3-6.)

(2) "Deputy Commissioner" means the Deputy Commissioner of the Sonthal Parganas and includes any person invested by the Lieutenant-Governor with the powers of a Deputy Commissioner for all or any of the purposes of this Regulation.

CHAPTER II.

RENT.

Rule of general application throughout the Sonthal Parganas.

Mode of
changing
rents.

3. Notwithstanding any agreement to the contrary, the rent of a headman or of a *raiyat* shall not be changed, except by the Settlement-officer in the course of settlement-proceedings under the Sonthal Parganas Settlement Regulation,^[1] or by the Deputy Commissioner in accordance^{3.} with the procedure prescribed in this Regulation.

Adjustment of Rents under the Settlement Regulation.

Power to
order settle-
ment exer-
cisable from
time to time
under Regu-
lation 3 of
1872.

4. In section 9 of the Sonthal Parganas Settlement Regulation,^[1] 3 after the words "The Lieutenant-Governor may" the words "from time to time" shall be inserted.

5. [Repeal of section 19 of Regulation 3 of 1872.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

Term for
which rent
adjusted un-
der Regula-
tion 3 of
1872 remains
fixed.

6. Notwithstanding any agreement to the contrary, rents of headmen and *raiyats*, adjusted and recorded by the Settlement-officer in the course of a settlement under the Sonthal Parganas Settlement Regulation,^[1] 3 shall remain unchanged—

- (a) in the case of a settlement made before this Regulation comes into force, for seven years from the time of the adjustment and record, or for such longer period (if any) as may have been specified in the record of the settlement in this behalf;
- (b) in the case of a settlement made after this Regulation comes into force, for fifteen years from the time of the adjustment and record;
- (c) in the case of a settlement made either before or after this Regulation comes into force, until within the period mentioned in clause (a) or clause (b), as the case may be, of this section the rents are changed in the course of a fresh settlement.

(Secs 7-13)

Determination of Rents under this Regulation in Settled Tracts

7. Subject to the provisions of sections 6 and 18—

- (a) the zamindar or other proprietor of a village which has been settled under the Sonthal Parganas Settlement Regulation [1] or
- (b) the *manjhi* or other headman of any such village, or
- (c) any number, not being less than one-half, of the cultivating *raiya*s of any such village,

Power to apply for preparation of rent roll.

may, if dissatisfied with the rents payable in the village, apply to the Deputy Commissioner to prepare a table of rates of rent for the village and to determine the rents on the basis thereof

8 Every application under section 7 shall set forth precisely the grounds upon which the existing rents are sought to be changed

Contents of application.

9 If the Deputy Commissioner considers that any application under section 7 is not admissible under that section, or is of opinion, on a consideration of the grounds set forth in the application or after such further inquiry as he deems necessary, that the rents ought not to be changed, he shall reject the application

Power for Deputy Commissioner to reject application.

10 If the Deputy Commissioner finds that the application is admissible under section 7 and is of opinion, on a consideration of the grounds set forth in the application or after such further inquiry as he deems necessary, that the rents ought to be changed he shall submit the application with his recommendations for the orders of the Commissioner

Submission of application by Deputy Commissioner to Commissioner.

11. The Commissioner may in his discretion either reject the application or direct the Deputy Commissioner to prepare for his approval a table of rates of rent for the village and a rent roll based thereon

Power for Commissioner to direct preparation of table of rates and rent roll.

12 In preparing the table of rates the Deputy Commissioner shall, subject to such rules if any, as the Lieutenant Governor may from time to time prescribe, ascertain and record such rates for the different classes of land as seem to him, due regard being had to existing rents, to be fair and equitable

Preparation of table of rates.

13 (1) In preparing the rent roll on the basis of the table of rates the Deputy Commissioner shall have regard to such circumstances as, in adjusting rents under the Sonthal Parganas Settlement Regulation, [1] the Settler or officer would have regard to

Preparation of rent roll.

(Seqs. 14-19.)

(2) When the Deputy Commissioner has prepared the rent-roll, he shall determine the rent payable by the village-headman and specify that rent also in the rent-roll.

preliminary
publication
of table and
roll.

14. When the table-of-rates and rent-roll have been approved by the Commissioner, the Deputy Commissioner shall cause them to be locally published in such manner as the Lieutenant-Governor may from time to time prescribe.

disposal of
objections to
table or roll.

15. (1) When the table-of-rates and rent-roll have been published under section 14, any person interested may present a petition in writing to the Deputy Commissioner specifying any objection which he may desire to make with respect to the table or roll or both.

(2) The Deputy Commissioner shall consider the objection and, after such inquiry as he may deem necessary, record an order with respect thereto, either dismissing the objection or proposing for the approval of the Commissioner such amendment of the table or roll or both as may seem to be proper.

amendment
of table or
roll.

16. When an amendment of the table-of-rates or of the rent-roll or of both is approved by the Commissioner on a proposal under section 15, sub-section (2), or is ordered by the Deputy Commissioner of the Sonthal Parganas or by the Commissioner under section 26, or by the Lieutenant-Governor under section 27, the Deputy Commissioner shall cause the table or roll or both to be amended in conformity with the directions of the authority approving or ordering the amendment.

final publi-
cation of
table and
roll.

17. After the expiration of a year from the date of the preliminary publication under section 14, the table-of-rates and rent-roll, with such amendments, if any, as have been made therein under section 16, shall be locally published in such manner as the Lieutenant-Governor may from time to time prescribe.

continuance
of table and
roll.

18. The rates and rents specified in a table and roll finally published under section 17 shall, subject to any order under section 26 or section 27, remain unchanged for a period of fifteen years from the date of the publication under that section, and thereafter until a new table-of-rates and rent-roll have been published under section 17, or, if before the expiration of the period of fifteen years or before a new table and roll have been published the rents are adjusted and recorded under the Sonthal Parganas Settlement Regulation,^[1] then until the date of that adjustment and record.

commence-
ment of oper-
ation of roll.

19. The rents specified in a rent-roll published under section 17 shall, notwithstanding any agreement to the contrary, take effect from such date as the Deputy Commissioner may appoint.

(Secs 10A-10C)

[1]10A. Notwithstanding anything contained in section 6 or section 18, the *zamindar* or other proprietor of a village may at any time apply to the Deputy Commissioner for the enhancement of the rent of the village or of any holding situate therein, on the ground that since such rent was adjusted and recorded by the Settlement officer under the Sonthal Parganas Settlement Regulation, or since a table of rates and rent roll were published under section 17 the productive powers of the land in such village or holding have been increased by an improvement effected by, or at the expense of, the *zamindar* or other proprietor.

Provided that in case of villages which are in the lease or management of a *mánjhi* or headman, the *zamindar* or other proprietor has obtained the consent of the Deputy Commissioner prior to effecting the improvement, and that the improvement is of so substantial a nature as beneficially to effect a considerable proportion of the lands in the village.

Explanation—The provision of security against failure of crops from drought or inundation shall be deemed to be equivalent to an increase in the productive powers of the land for the purposes of this section.

[1]10B. (1) If after enquiry the Deputy Commissioner finds that the productive powers of the land have actually been so increased in a permanent manner, the Deputy Commissioner may, by order in writing, enhance the rent which has been declared by the Settlement officer to be payable, or which is entered in the rent roll, as the case may be.

Provided that, where the Deputy Commissioner considers that the immediate enforcement of the full enhancement adjudged is likely to be attended with hardship, he may direct that the enhancement shall be gradual, that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the full enhancement adjudged has been reached.

(2) Where the Deputy Commissioner enhances rent under the provisions of sub-section (1), he shall, in his order, declare the date from which such enhancement shall take effect.

[1]10C. In determining the amount of enhancement the Deputy Commissioner shall have regard to—

- the increase in the productive powers of the land caused by the improvement,
- the cost of the improvement
- the existing rent and the ability of the tenant to bear a higher rent, and

[1] Sections 10A to 10C were added by the Sonthal Parganas Land Revenue Amendment Act, 1880 (III of 1880), s. 2, part p. 22.

(Secs. 19D-20.)

(d) the expense which the *raiyat* has to incur in order to be able to utilize the improvement.

Disposal of applications under section 19A during settlement proceedings.

Duration of enhancement.

[¹]19D. Any application under section 19A, for the enhancement of the rent of a village or of any holding situate therein, which is made to or pending before the Deputy Commissioner while a settlement is being made of such village under the Sonthal Parganas Settlement Regulation, shall be transferred by him to the Settlement-officer for disposal.

[¹]19E. Where rent has been enhanced under section 19B, on the ground of an improvement, no further enhancement shall be granted in respect of the same improvement until there is a re-settlement of the village under the Sonthal Parganas Settlement Regulation, or until a fresh table of rates and rent-roll are published under section 17:

Provided that any person by whom such rent is payable may at any time apply to the Deputy Commissioner to have the enhancement reduced or annulled on the ground that the improvement has not produced, or has ceased to produce, the estimated effect.

Saving where *raiyat* contributes towards cost of improvement.

[¹]19F. Where a *raiyat*, having entered into an agreement with the *zamindar* or other proprietor of a village to contribute towards the cost of an improvement the share thereof which is fairly debitable to his holding, has paid the amount of such share to the *zamindar* or other proprietor, the rent of his holding shall not be enhanced under the provisions of section 19B in respect of the said improvement.

Determination of Rent under this Regulation in Unsettled Tracts.

Application of sections 7 to 19 to unsettled lands.

20. (1) An application may at any time be made to the Deputy Commissioner for the preparation of a table-of-rates, and of a rent-roll based thereon, for lands which have not been settled under the Sonthal Parganas Settlement Regulation.[²]

(2) In the case of an application under sub-section (1), the rules prescribed in sections 7 to 19 shall be subject to the following modifications, namely:—

(a) any less number than one-half of the *raiyats* may make the application;

(b) if the Deputy Commissioner is of opinion that the rents ought to be changed, he may prepare and publish the table-of-rates and rent-roll on his own authority and without reference to the Commissioner;

[¹] Sections 19A to 19F were added by the Sonthal Parganas Rent (Amendment) Regulation, 1907 (III of 1907), s. 2, *post*, p. 837.

[²] Printed *ante*.

(Secs. 21-23.)

- (c) the Deputy Commissioner may, on consideration of an objection, amend the table or roll or both on his own authority, and without reference to the Commissioner; and
- (d) the table and roll, with such amendments, if any, as may have been made therein, may be finally published after the expiration of one month from the date of the preliminary publication.

Supplemental Provisions.

21. In the preparation of table-of-rates and rent-rolls under this Regulation the Deputy Commissioner may employ any Deputy Collector, Assistant Collector or Sub-Deputy Collector.

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Cost of
cost

22. (1) The costs of all proceedings connected with an application under section 7 or section 20 of this Regulation, including the pay of all establishments employed under the orders of the Deputy Commissioner, and such proportion of the salary of any gazetted officer employed as the Commissioner may direct, shall be recoverable as a public demand

(2) Such costs shall ordinarily be recoverable from the person making the application, but the Deputy Commissioner may in any case—

- (a) direct that the costs shall be distributed among, and be recoverable from, all or any of the parties interested in the preparation of the table-of-rates and rent-roll, in such manner as may seem to him equitable, and
- (b) require the deposit, by any person interested, of such proportion of the costs of the proceedings as may seem to him equitable, and suspend the proceedings pending the making of the deposit.

(3) When the Deputy Commissioner directs that any costs shall be recoverable from raiyats under this section, he may further direct that they shall be recoverable through the headman, and may fix a date after which they shall be recoverable from the headman personally if they have not before that date been paid to the Deputy Commissioner or as the Deputy Commissioner directs.

23. When any waste of forest, which has been excluded from a village under section 15 of the Sonthal Parganna Settlement Regulation, [1] is

Application
by Settle.

[1] The words and figures "under Bengal Act 7 of 1839," which were repealed by the Amending Act, 1903 (1 of 1903), are omitted. See now the Bihar and Orissa Public Revenue Recovery Act, 1914 (II and O. Act 4 of 1914), ss. 4 and 5, in Vol. III of the Code.

[2] Printed costs.

SOL. 1.

(Sec. 24.)

of table-of-rates to waste included by him in a village.

subsequently settled, the Settlement-officer may, if he thinks fit, direct its inclusion within any village and declare that the table-of-rates (if any) for the time being in force under this Regulation for that village shall be applicable thereto.

New Tenancies.

Regulation of rents of new tenancies.

24. (1) When, after rents have been recorded under the Sonthal Parganas Settlement Regulation,^[1] or a rent-roll has been prepared under section 13 of this Regulation, for a village in which a settlement³ has been made under the former Regulation, a tenancy comes into existence in the village which, if it had been in existence in the village when the record or the rent-roll was prepared, would have been included therein, the rent payable in respect of the tenancy shall be regulated as follows:—

(i) if the tenancy is of reclaimed waste or forest—

(a) the rent for the first seven years after the reclamation shall not exceed half the rent which the Settlement-officer has admitted as fair and equitable in the case of land of similar quality in the village, or, as the case may be, which is payable for such land under the table-of-rates on which the Deputy Commissioner based the rent-roll of the village, and

(b) the rent after the first seven years shall not exceed the full rent computed as aforesaid;

(ii) if the tenancy is of an abandoned, surrendered or forfeited holding the rent shall not exceed the rent which the Settlement-officer has or would have fixed for the holding, or, as the case may be, which is payable under the table-of-rates for such land as is comprised in the holding.

(2) Rent payable under this section may be changed on the final publication of a new rent-roll of the village under this Regulation or on³ of an adjustment and record of rents under the Sonthal Parganas Settlement Regulation.^[1]

(3) If any dispute arises as to the rent payable in respect of a tenancy under this section, it shall, on application for that purpose by either of the disputing parties to the Deputy Commissioner, be determined by him.

(Secs. 25-27.)

Protection of Raiyats from Ejectment.

25. A raiyat, whether recorded as possessing a right of occupancy or not shall not be ejected from his holding otherwise than in execution of an order of the Deputy Commissioner.

Acquisition of land for buildings and other purposes.

[25A. (1) The zamindar or other proprietor of a village, who is desirous of acquiring the holding or part of the holding of any raiyat in such village, or any land over which the inhabitants of such village have any common right, for any reasonable purpose having relation to the good of the holding, village or estate, or for the erection of buildings or for any religious, educational or charitable purpose, may apply to the Deputy Commissioner for authority to acquire the same.

(2) On being satisfied that the purpose stated in the application made under sub-section (1) is reasonable and sufficient, and that the objections, if any, taken to the application are such that they may fairly be disregarded, the Deputy Commissioner may authorize the applicant to take possession of the land on such terms and on payment to the raiyat or other person interested (if any) of such compensation as he thinks fair and reasonable.

Appeal and Revision.

26. An appeal from an order of the Deputy Commissioner under sections 9, 16, 20, 22, 24 or 25, or from an order of the Settlement-officer under section 23, shall, if presented within three months from the date of the order appealed against, lie—

- (a) when the officer making the order is a person invested by the Lieutenant-Governor with the powers of a Deputy Commissioner for all or any of the purposes of this Regulation—to the Deputy Commissioner of the Sonthal Parganas;
- (b) when the Deputy Commissioner making the order is the Deputy Commissioner of the Sonthal Parganas, or the order is made by a Settlement-officer—to the Commissioner.

27. All proceedings of the Deputy Commissioner, Settlement-officer or Commissioner under this Regulation shall be subject to revision, confirmation and alteration by the Lieutenant-Governor.

[1] The new heading and s. 25 (A) was added by the Sonthal Parganas Rent (Amendment) Regulation, 1887 (III of 1887), s. 2, para. 1 & 2.

(Secs. 28-31.)

CHAPTER III.

MISCELLANEOUS.

Amendment
of section 25
of Regulation
3 of 1872.

28. For the second sentence of the first clause of section 25 of the Sonthal Parganas Settlement Regulation,^[1] the following sentence shall be substituted:—

[Section 25 of the Sonthal Parganas Settlement Regulation, 3 of 1872, as amended by this Regulation has been replaced by the present section 25, printed ante, p. 772, by s. 9 of the Sonthal Parganas Settlement (Amendment) Regulation, 3 of 1908, printed post, p. 831.]

Power of
Lieutenant-
Governor to
order amend-
ment of
record-of-
rights when
table-of-rates
and rent-roll
are prepared.

29. Whenever a table-of-rates and rent-roll are prepared for a village under this Regulation, the Lieutenant-Governor may, by special order, empower the officer making the table-of-rates and rent-roll to amend the whole or any part of the record-of-rights of the village.

Power to
make rules.

30. (1) The Lieutenant-Governor may, from time to time, make rules consistent with this Regulation for the guidance of officers in all matters connected with its enforcement.

(2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Power to
exclude land
from opera-
tion of
provisions
regarding
determination
and adjust-
ment of rent.

31. The Lieutenant-Governor may, from time to time, by notification in the local official Gazette, exclude any land from the operation of this Regulation and of such portions of the Sonthal Parganas Settlement 3 of Regulation ^[1] as relate to the adjustment and record of rents.

^[1] Printed ante.

REGULATION 5 OF 1833.
(THE SONTHAL PARGANAS JUSTICE REGULATION, 1833)

CONTENTS.[1]

CHAPTER I.

PRELIMINARY.

Section.

1. Title, extent and commencement.
2. [Repealed.]
3. Definitions.

CHAPTER II

CRIMINAL JUSTICE.

Section.

4. Application of the Code of Criminal Procedure, 1833
 - I.—High Court.
 - II.—Court of Session.
 - III.—Appeals from subordinate Magistrates.
 - IV.—Appeal from Deputy Commissioners.
 - V.—Certain powers not to be exercised by Court of Session.
 - VI.—Power of Appellate Court to enhance sentence.
 - VII.—Findings, &c., not to be reversed for mere irregularity of procedure.
 - VIII.—Rules.

CHAPTER III

CIVIL JUSTICE.

5. Classes of Courts in the Sonthal Parganas.
6. Division of remainder of Chapter into Parts.

*Part I.—Courts established under the Proved, United Provinces and
Assam Civil Courts Act, 1857.*

7. Grades of Courts established under Act 12, 1857.
8. Appointment of District Judge and Subordinate Judges.
9. Effect of original jurisdiction of District Judge and Subordinate Judge.
10. Procedure in original suits, and appeals from decisions and orders thereon.
11. Limitation of the application of Act 12, 1857.

Part II.—Courts of Officers appointed under section 9 of Act 2nd of 1857.

12. Grades of Courts of officers appointed under Act 22, 1857, section 2.
13. Intercourse of officers and of jurisdiction of officers and Courts.
14. Original jurisdiction of Courts.

15. Court of Commissioner to be High Court, and Court of Deputy Commissioner to be District Court.
16. Control over Courts.
17. Appeals from original decrees or orders.
18. Second appeals.
19. Revision.
20. Power for Deputy Commissioner to distribute business.
21. Power for Commissioner and Deputy Commissioner to transfer proceedings.
22. Review.
23. Decrees and orders not reversible on technical grounds alone.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

24. Addition to section 6, Regulation 3, 1872.
25. Pending proceedings.
26. Pending appeals.
27. Limitation of the scope of directions under Act 37, 1855, section 1, clause 2.

REGULATION 6 OF 1893.[1]

(THE SONTHAL PARGANAS JUSTICE REGULATION, 1891.)

(29th March, 1893.)

A Regulation to make further provision for the administration of Criminal and Civil Justice in the Sonthal Parganas.

Whereas it is expedient to make further provision for the administration of criminal and civil justice in the Sonthal Parganas; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Regulation may be called the Sonthal Parganas Justice Regulation, 1893.

(2) It extends to the whole of the Sonthal Parganas as described in the Schedule [2] to Act 10 of 1857 and in the Notification [3] of the Governor General in Council, No. 478, dated the 12th March, 1872; and

(3) It shall come into force on such day [3], within three months from the time at which it may receive the Governor General's assent, as the Local Government may, by notification in the official Gazette, appoint in this behalf.

2. [Repeal of (1) sections 4 and 5 and portion of section 3 of Act 37 of 1853; (2) section 4 of Regulation 3 of 1872, and (3) rule 42 of the Civil Procedure rules of August, 1873] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

3. In this Regulation—

(1) "Commissioner" means the Commissioner of the Bhagalpur Division; and

[1] LOCAL EXTENT.—This Regulation extends only to the Sonthal Parganas as described in the Schedule printed at the end of the Sonthal Parganas Act, 1857 (10 of 1857) *ante*, *post*, *pass* a. 1 (5) of the Regulation. The Regulation is formally included in the Schedule of Laws in force in those Parganas—*ante*, p. 601.

EXTENT.—This Regulation has been reprinted (by the Legislative Department of the Government of India) as modified by subsequent legislation up to the 1st October, 1909.

The Regulation is also reprinted in the Sonthal Parganas Manual, 1911.

[2] The Schedule is printed *ante*, p. 577, and the N. A. C. is published in the Gazette of India, 1872, Part I, p. 292. The descriptions in the Schedule and the Notification are identical.

[3] The 12th June, 1893—*see* Calcutta Gazette, 1893, Part I, p. 507.

(Sec. 4.)

(2) "Deputy Commissioner" means the Deputy Commissioner of the Sonthal Parganas.

CHAPTER II.

CRIMINAL JUSTICE.

Application
of the Code
of Criminal
Procedure,
1898.

High Court,

[¹] 4. The Code of Criminal Procedure, 1898, [²] shall have effect in the Sonthal Parganas, subject to the following modifications, namely:—

I.—"High Court" shall mean,—

(i) in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Court of Judicature at Fort William in Bengal; and

(ii) in reference to proceedings against other persons,—

(a) in cases tried by the Court of Session and in appeals under section 417 from original or appellate orders of acquittal, the High Court of Judicature at Fort William in Bengal; and

(b) in other cases, the Commissioner.

Court of Ses-
sion.

[³] II.—The Sonthal Parganas shall be a sessions division, the Court of Session and the Sessions Judge for that division shall be such Court of Session and Sessions Judge as the Local Government may from time to time appoint by notification in the official Gazette, and the Court so appointed shall sit within the Sonthal Parganas.

Appeals from
subordinate
Magistrates.

III.—Any person convicted, or sentenced under section 349, by any Magistrate other than the Deputy Commissioner, may appeal to the Deputy Commissioner.

Appeal from
Deputy Com-
missioner.

IV.—Any person convicted, or sentenced under section 349, by the Deputy Commissioner, may appeal to the Commissioner as High Court.

Certain
powers not to
be exercised
by Court of
Session.

V.—The Court of Session shall not exercise any of the powers conferred by sections 435, 436, 437 and 438.

[¹] This section was substituted for the original s. 4, by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 2, *post*, p. 832.

[²] Printed in the General Acts, 1891-98, Ed. 1899, p. 380.

[³] This was substituted for the original by the Sonthal Parganas Justice (Amendment) Regulation, 1912 (1V of 1912), s. 2; *post*, p. 854.

(Secs 5-6)

VI—When an appeal has been preferred, the Appellate Court may enhance any punishment which has been awarded by the Lower Court Appellate Court

Provided that, if the appeal is from the sentence of a Magistrate other than the Deputy Commissioner, the Appellate Court shall not inflict a greater punishment than might have been inflicted by a Magistrate of the first class

VII—Notwithstanding anything in the Code a finding, sentence or order shall not be reversed or altered, on appeal or in revision, on account of any irregularity of procedure, unless the irregularity has occasioned, or is likely to occasion, a failure of justice

VIII—Rules under section 551, sub section (2), clause (c), may regulate the following among other matters, namely —

- (a) the fees to be paid for processes, and
- (b) the fees to be paid for copies and the inspection of records

CHAPTER III

CIVIL JUSTICE

5 Besides the Courts of Settlement officers there shall be two classes of Civil Courts in the Sonthal Parganas namely —

- (1) Courts established under the Bengal [1] [Agri] and Assam Civil Courts Act, 1887 [2] and
- (2) Courts of officers appointed by the Lieutenant Governor of Bengal, under section 2 of Act 37 of 1855 [3]

6 The rest of this Chapter is divided into two parts as follows —

PART I—*Courts established under the Bengal, [1] [Agri] and Assam Civil Courts Act, 1887 [2]*

PART II—*Courts of officers appointed under section 2 of Act 37 of 1855 [3]*

[1] The word Agri has been substituted for the words "North Western Provinces and the Bengal Agri and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911)"

[2] The Sonthal Parganas Act 1903. It is printed exte

(Secs. 7-11.)

PART I.

Courts established under the Bengal,^[1] [Agra] and Assam Civil Courts Act, 1887.

Grades of
Courts es-
tablished
under Act
12, 1887.

7. The Courts established under the Bengal,^[1] [Agra] and Assam Civil Courts Act, 1887,^[2] shall in the Sonthal Parganas be of two 12 of 1887. grades, namely:—

- (1) the Court of the District Judge; and
- (2) the Courts of Subordinate Judges.

Appointment
of District
Judge and
Subordinate
Judges.

8. The Deputy Commissioner shall be the District Judge, and the Local Government may appoint any Sub-divisional Officer to be a Sub-ordinate Judge.

Extent of
original
jurisdiction
of District
Judge and
Subordinate
Judges.

9. The jurisdiction of the District Judge or a Subordinate Judge extends subject to the provisions of section 15 of the Code of Civil Procedure,^[3] to suits of which the value exceeds one thousand rupees and which are not excluded from his cognizance by the Sonthal Parganas Settlement Regulation^[4] or by any other law for the time being in 3 of 1872. force:

Provided that such jurisdiction shall not extend to any suit for money in which the amount claimed, exclusive of interest, does not exceed five hundred rupees.

Procedure in
original suits,
and appeals
from decrees
and orders
therein.

10. The trial of such suit shall be regulated by the Code of Civil Procedure^[3] as for the time being in force in the Bhagalpur District, 14 of 1882. and the course of appeal from decrees and orders in such suits shall, where an appeal is allowed by law, be that prescribed in section 20, sub-section (1) and section 21, sub-section (1), of the Bengal,^[1] [Agra] and 12 of 1887. Assam Civil Courts Act, 1887,^[2] and in section 584 of the Code of Civil 14 of 1882. Procedure,^[3] the expression "High Court" in the said sections being construed to mean the High Court of Judicature at Fort William in Bengal.

Limitation of
the applica-
tion of Act
12, 1887.

11. Nothing in sections 3 to 9 (both inclusive), 12, 18, 19, 22 to 25 (both inclusive), 27 to 36 (both inclusive) and 40 of the Bengal,^[1] [Agra] and Assam Civil Courts Act, 1887,^[2] shall apply to a Court established under that Act in the Sonthal Parganas. 12 of 1887.

[¹] The word "Agra" has been substituted for the words "North-Western Provinces"—by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 2, *ante*.

[²] Printed *ante*, p. 575.

[³] Printed in the General Acts, 1882-84, Ed. 1898, p. 262.

[⁴] Printed *ante*, p. 777.

(Secs. 12-15.)

PART II.

Courts of Officers appointed under section 2 of Act 37 of 1855.[¹]

12. The Courts of officers appointed by the Lieutenant-Governor of Bengal under section 2 of Act 37 of 1855 [¹] shall be of four grades, namely;—

- (1) the Court of the Commissioner;
- (2) the Court of the Deputy Commissioner;
- (3) the Courts of Sub-divisional Officers; and
- (4) the Courts of Deputy Collectors not in charge of a sub-division, and Sub-Deputy Collectors.

13. The Local Government may fix and vary the number of Courts of Sub-divisional Officers and of Deputy Collectors not in charge of a sub-division and Sub-Deputy Collectors, and the local limits [²] of the jurisdiction of those Courts.

14. Except as otherwise provided by any other enactment for the time being in force, jurisdiction with respect to suits which are not cognizable either by a Court established in the Sonthal Parganas under the Bengal, [³][Agra] and Assam Civil Courts Act, 1887, [⁴] or by a Settlement-officer under the Sonthal Parganas Settlement Regulation [⁵] shall be had,—

- (a) up to the value of one hundred rupees or such other value not exceeding five hundred rupees as the Local Government may, by notification [⁶] in the official Gazette, prescribe, by the Court of a Deputy Collector not in charge of a sub-division, or Sub-Deputy Collector; and
- (b) without limit as regards the value, by the Court of a Sub-divisional Officer or the Court of the Deputy Commissioner.

15. (1) Subject to the provisions of the first proviso to section 2 of Act 37 of 1855 [¹] and of section 10 of this Regulation with respect to

[¹] The Sonthal Parganas Act, 1855. It is printed *ante*, p. 373.

[²] For an order under a. 13, see the Sonthal Parganas Manual, 1911.

[³] The word "Agra" was substituted for the words "North Western Provinces" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 2.

[⁴] Printed *ante*.

[⁵] Printed *ante*, p. 777.

[⁶] See Notification No. 4156 J, dated the 22nd August 1923, in the Sonthal Parganas Manual, 1911.

(Secs. 16-17.)

and Court of
Deputy
Commis-
sioner to be
District
Court.

the jurisdiction of the High Court of Judicature at Fort William in Bengal in relation to suits cognizable by Courts established under the Bengal,[¹] [Agra] and Assam Civil Courts Act, 1887,[²] and subject 12 of 1887. also to the provisions of sub-section (3), and of any other enactment for the time being in force, the Court of the Commissioner shall, for the purposes of all enactments relating to civil jurisdiction for the time being in force, be deemed to be the High Court for the Sonthal Parganas.

(2) Subject to the provisions of the same proviso with respect to the trial and determination of suits of value exceeding one thousand rupees which are within the cognizance of a Court established in the Sonthal Parganas under the Bengal,[¹] [Agra] and Assam Civil Courts Act, 12 of 1887,[²] and subject also to the provisions of sub-section (3) and of any rules and orders for the time being in force under section 10 of the Sonthal Parganas Settlement Regulation,[²] the Court of the Deputy Commis- 3 of 1872. sioner shall, for the same purposes, be deemed to be the principal Civil Court of original jurisdiction and the District Court for the Sonthal Parganas :

Provided that the Lieutenant-Governor may, by notification in the official Gazette, direct that the Court of a Sub-divisional officer shall, for the purposes of any enactment specified in the notification, be deemed to be the District Court for the local area within its jurisdiction.

(3) For the purposes of the Indian Divorce Act[³] the Commissioner 4 of 1863. shall be deemed to be the District Judge, and the High Court of Judicature at Fort William in Bengal to be the High Court.

Control over
Courts.

13. (1) The general superintendence and control over Civil Courts of all other grades shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(2) Subject to the general superintendence and control of the Court of the Commissioner, the Deputy Commissioner shall control all Civil Courts of the third and fourth grades.

Appeals from
original
decrees or
orders.

17. (1) Subject to the provisions of this Part of this Chapter with respect to revision, a decree or order made in an original suit of value not exceeding fifty rupees by a Sub-divisional Officer, or in an original suit of value not exceeding one hundred rupees by the Deputy Commissioner, shall, if no question of title to immoveable property or to office

[¹] The word "Agra" was substituted for the words "North-Western Provinces" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), s. 2, *ante*.

[²] Printed *ante*.

[³] Printed in the General Acts, 1868-76, Ed. 1909.

(Secs. 18-21.)

connected with such property was directly or indirectly in issue in the suit, be final.

(2) From every other decree or order in an original suit an appeal shall lie, when the decree or order was made,—

- (a) by a Deputy Collector not in charge of a sub-division or by a Sub-Deputy Collector, to the Sub-divisional Officer: provided that the Deputy Commissioner shall have power to order any such appeal to be transferred to his own file;
- (b) by a Sub-divisional Officer, to the Deputy Commissioner;
- (c) by the Deputy Commissioner, to the Commissioner.

18. Subject to the provisions of this Part of this Chapter with respect to revision, an appellate order or decree shall be final in all cases where the decision of the Lower Court is affirmed, and no second appeal shall be allowed except when the Sub-divisional Officer or Deputy Commissioner has varied the decision of the Lower Court. In this case an appeal will lie to the Commissioner.

The appellate order or decree upon a second appeal shall in all cases be final.

19. (1) The Commissioner or Deputy Commissioner may, of his own motion or otherwise, call for the record of any case decided by a Court under his control in which an appeal does not lie or in which, for cause shown to his satisfaction, an appeal has not been preferred within the time limited therefor, and may pass such order in the case as he thinks fit.

(2) The Deputy Commissioner may, by order in writing, empower any Sub-divisional Officer under his control to exercise the powers conferred on the Deputy Commissioner by sub-section (1) with respect to the decisions of all or any of the Courts of Deputy Collectors not in charge of a sub-division, or Sub-Deputy Collectors, under the control of the Deputy Commissioner.

20. The Deputy Commissioner may, by order in writing, direct that any civil business cognizable by him and the Courts under his control shall be distributed among those Courts in such manner as he thinks fit:

Provided that no direction under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

21. The Commissioner or Deputy Commissioner may withdraw any suit or other proceeding pending in any Court under his control and try it himself or refer it for disposal to any other Court under his control and competent to try it.

(Secs. 22-25.)

Review.

22. (1) The Commissioner may, for sufficient reason, review any decree or order which has been passed by himself and from which an appeal has not been preferred to Her Majesty in Council.

(2) A Court subordinate to that of the Commissioner shall not review any decree or order made by it, except for the purpose of correcting a clerical error or other error manifestly the result of an oversight, without previously obtaining,—

(a) in the case of the Court of a Deputy Collector not in charge of a sub-division, or Sub-Deputy Collector, or of a Sub-divisional Officer, the permission of the Deputy Commissioner; and

(b) in the case of the Court of the Deputy Commissioner, the permission of the Commissioner.

Decrees and orders not reversible on technical grounds alone.

23. A decree or order made by the Court of an Officer appointed by the Lieutenant-Governor of Bengal under section 2 of Act 37 of 1855 [1] shall not be reversed or altered on appeal or revision on account of any irregularity of procedure, unless the irregularity has occasioned or is likely to occasion a failure of justice.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

Addition to s. 6, Reg. 3, 1872.

24. To section 6 of the Sonthal Parganas Settlement Regulation the III of 1872. following shall be added, namely:—

[Printed *ante*, p. 768.]

Pending Proceedings.

25. All cases and proceedings, whether original or on appeal, review, reference or revision, pending in the Court of the Commissioner of the Bhagalpur Division, or of the Deputy Commissioner or any subordinate officer of the Sonthal Parganas, shall be disposed of as if this Regulation had not been passed; and no decree or order which may be made or passed in any such pending case in pursuance of any jurisdiction intended or purporting to be conferred by, or by the authority of, the Lieutenant-Governor of Bengal under Act 37 of 1855, [1] or any other enactment for the time being in force, shall be deemed invalid or be deprived of any of its effect by reason of the objection that such jurisdiction was not or could not have been lawfully conferred.

[1] The Sonthal Parganas Act, 1855, *ante*, p. 373.

(Secs. 26-27.)

26. Appeals and applications for revisions from decrees, orders and decisions passed by the Deputy Commissioner or any subordinate officer of the Sonthal Parganas, and not appealed against before the date on which this Regulation comes into force, shall lie and be disposed of as if passed by Courts exercising similar jurisdictions under this Regulation.

27. Any directions which the Lieutenant-Governor of Bengal may issue under section 1, clause 2, of Act 37 of 1855, [1] must be consistent with this Regulation and with all other enactments for the time being in force in the Sonthal Parganas.

[1] The Sonthal Parganas Act, 1855, *ante*, p. 373.

REGULATION 3 of 1899.

(THE SONTHAL PARGANAS JUSTICE AND LAWS REGULATION, 1899.)[¹]

(23rd August, 1899.)

A Regulation to amend the Sonthal Parganas Justice Regulation, 1893, and the Sonthal Parganas Settlement Regulation, as amended by the Sonthal Parganas Laws Regulation, 1886.

5 of 1893. Whereas it is expedient to amend the Sonthal Parganas Justice Regu-
3 of 1872. lation, 1893,[²] and the Sonthal Parganas Settlement Regulation,[³]
3 of 1886. as amended by the Sonthal Parganas Laws Regulation, 1886;[⁴] It is
hereby enacted as follows. —

1. (1) This Regulation may be called the Sonthal Parganas Justice and Laws Regulation, 1899.

(2) [Commencement.] *Rep. by the Amending Act, 1903 (1 of 1903).*

6 of 1893. 2. For section 4 of the Sonthal Parganas Justice Regulation, 1893, the following shall be substituted, namely: —

4. [Printed *ante*, p. 821.]

3 of 1872. 3. For section 3 of the Sonthal Parganas Settlement Regulation, as
3 of 1886 amended by the Sonthal Parganas Laws Regulation, 1886,[⁵] with the
schedule annexed thereto, the following, with the schedule annexed to
this Regulation, shall be substituted, namely: —

3. [Printed *ante*, p. 777]

THE SCHEDULE

[Printed *ante*, p. 787]

[¹] Local Pattern — This Regulation extends only to the Sonthal Parganas as directed in the Schedule printed at the end of the Sonthal Parganas A. A. 1 of 1899 Act.

[²] Printed *ante*, p. 823

[³] Printed *ante*, p. 777

[⁴] Reg. 3 of 1886 was repealed by the Amending A. A. 1903 (1 of 1903).

REGULATION 2 of 1994 (1)

(THE ROSTHAL PARAGRAPHS SIXTYFIRST REGULATION, 1901) [17]

(21th August, 1991)

A Regulation to provide for the apportionment and recovery of expenses incurred by the Government in certain settlement proceedings taken under section D of the Sonthal Pargannas Settlement Regulation.

Whereas under section 9² of the Sonthal Parganas Settlement Regulation, the Lieutenant-Governor of Bengal may declare that a settlement shall be made of the whole or any part of the Sonthal Parganas for the purpose of ascertaining and recording the various interests and rights in the land to be so brought under settlement, but no provision has been made for the recovery of expenses incurred by the Government in respect of such settlement: It is hereby enacted as follows:—

1. (1) This Regulation may be called the Southal Parganas Settlement Regulation, 1901, and

(2) It shall be read with, and taken as part of, the Santhal Parganas Settlement Regulation

3. When, under section 9^[1] of the South Malabar Settlement Regulation, the Lieutenant-Governor declares that a settlement shall be made of the whole or any part of the South Malabar for the purpose of ascertaining and recording the various interests and rights in the land so to be brought under settlement, he may, save when a settlement of land-revenue is about to be made in respect of such land, order that the whole or any part of the expenses incurred by the Government in connection with such settlement, including the expenses of and incidental to any surveys that may have been necessary, as also the expenses that may be incurred from time to time in the maintenance of boundary and other survey marks erected for the purposes of such settlement, shall be borne by the owners, occupiers and village headmen of the land so brought under settlement, or by any one or more of them to the exclusion of the others or other of them, in such manner and in such shares or proportions as he may, having regard to all the circumstances of the case, deem just and equitable.

[illegible][illegible]

REGULATION 2 of 1901 [1]

(THE Sonthal Parganas Settlement Regulation, 1901) [1]

(24th August, 1901)

A Regulation to provide for the apportionment and recovery of expenses incurred by the Government in certain settlement proceedings taken under section 9 of the Sonthal Parganas Settlement Regulation.

Whereas under section 9[2] of the Sonthal Parganas Settlement Regulation, the Lieutenant-Governor of Bengal may declare that a settlement shall be made of the whole or any part of the Sonthal Parganas for the purpose of ascertaining and recording the various interests and rights in the land to be so brought under settlement, but no provision has been made for the recovery of expenses incurred by the Government in respect of such settlement, It is hereby enacted as follows —

1. (1) This Regulation may be called the Sonthal Parganas Settlement Regulation, 1901, and

(2) It shall be read with, and taken as part of, the Sonthal Parganas Settlement Regulation

2. When, under section 9[2] of the Sonthal Parganas Settlement Regulation, the Lieutenant-Governor declares that a settlement shall be made of the whole or any part of the Sonthal Parganas for the purpose of ascertaining and recording the various interests and rights in the land so to be brought under settlement, he may, save when a settlement of land revenue is about to be made in respect of such land, order that the whole or any part of the expenses incurred by the Government in connection with such settlement, including the expenses of and incidental to any surveys that may have been necessary, as also the expenses that may be incurred from time to time in the maintenance of boundary and other survey marks erected for the purposes of such settlement, shall be borne by the owners, occupiers and village headmen of the land so brought under settlement, or by any one or more of them to the exclusion of the others or other of them, in such manner and in such shares or proportions as he may, having regard to all the circumstances of the case, deem just and equitable.

[1] It is hereby enacted as follows —
[2] It shall be read with, and taken as part of, Reg. 3 of 1901, to which effect it is the same as that of the latter Regulation.
[3] It shall be read with, and taken as part of, Reg. 3 of 1901, to which effect it is the same as that of the latter Regulation.

(Secs. 3-5.)

Provision
in case of
devolution
or transfer of
interest in
land settled.

3. Where any such owner, occupier or village headman dies or transfers his interest in the land so brought under settlement, or any part thereof, before payment of the expenses ordered under section 2 to be borne by him, the Deputy Commissioner may recover the same from the representatives of the deceased person or from the transferor, as the case may be, or from the person in possession of the interest of the deceased person or transferor or of any part thereof, or from any of them, without prejudice to any agreement as to how or in what proportion such expenses are to be ultimately borne.

Mode of
recovery.

4. Every sum of money due from any person under the provisions of this Regulation shall be recoverable from him as an arrear of land-revenue.

Regulations
to have re-
trospective
effect.

5. This Regulation shall be deemed to apply also in the case of any settlement under section 9^[1] of the Sonthal Parganas Settlement Regulation, which, though begun, has not been completed before the commencement of this Regulation.

[1] Printed ante, p. 780.

REGULATION No 3 of 1907 [1]

[SONTHAL PARGANAS RENT (AMENDMENT) REGULATION, 1907]

(21th August, 1907)

A Regulation to amend the Sonthal Parganas Rent Regulation, 1886

Whereas it is expedient to amend the Sonthal Parganas Rent Regulation, 1886, in manner hereinafter appearing, It is hereby enacted as follows:—

1. This Regulation may be called the Sonthal Parganas Rent (Amendment) Regulation, 1907

2. After section 19 of the Sonthal Parganas Rent Regulation, 1886, the following shall be inserted, namely:—

"19A Notwithstanding anything contained in section 6 or section 18, the *zamindar* or other proprietor of a village may at any time apply to the Deputy Commissioner for the enhancement of the rent of the village or of any holding situate therein, on the ground that since such rent was adjusted and recorded by the Settlement officer under the Sonthal Parganas Settlement Regulation, or since a table of rates and rent roll were published under section 17 the productive powers of the land in such village or holding have been increased by an improvement effected by, or at the expense of, the *zamindar* or other proprietor

Provided that in case of villages which are in the lease or management of a *manjhi* or headman, the *zamindar* or other proprietor has obtained the consent of the Deputy Commissioner prior to effecting the improvement, and that the improvement is of so substantial a nature as beneficially to effect a considerable proportion of the lands in the village

Explanation—The provision of security against failure of crops from drought or inundation shall be deemed to be equivalent to an increase in the productive powers of the land for the purposes of this section

"19B (1) If after enquiry the Deputy Commissioner finds that the productive powers of the land have actually been so increased in a permanent manner, the Deputy Commissioner may, by order in writing

Sonthal Parganas Rent

(Sec. 2.)

enhance the rent which has been declared by the Settlement-officer to be payable, or which is entered in the rent-roll, as the case may be:

Provided that, where the Deputy Commissioner considers that the immediate enforcement of the full enhancement adjudged is likely to be attended with hardship, he may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the full enhancement adjudged has been reached.

(2) Where the Deputy Commissioner enhances rent under the provisions of sub-section (1), he shall, in his order, declare the date from which such enhancement shall take effect.

"19C. In determining the amount of enhancement the Deputy Commissioner shall have regard to—

- (a) the increase in the productive powers of the land caused by the improvement;
- (b) the cost of the improvement;
- (c) the existing rent and the ability of the land to bear a higher rent; and
- (d) the expense which the *raiyyat* has to incur in order to be able to utilize the improvement.

"19D. Any application under section 19A, for the enhancement of the rent of a village or of any holding situate therein, which is made to or pending before the Deputy Commissioner while a settlement is being made of such village under the Sonthal Parganas Settlement Regulation, III shall be transferred by him to the Settlement-officer for disposal.

"19E. Where rent has been enhanced under section 19B, on the ground of an improvement, no further enhancement shall be granted in respect of the same improvement until there is a re-settlement of the village under the Sonthal Parganas Settlement Regulation, or until a fresh table of rates and rent-roll are published under section 17:

Provided that any person by whom such rent is payable may at any time apply to the Deputy Commissioner to have the enhancement reduced or annulled on the ground that the improvement has not produced, or has ceased to produce, the estimated effect.

"19F. Where a *raiyyat*, having entered into an agreement with the *zamindar* or other proprietor of a village to contribute towards the cost of an improvement the share thereof which is fairly debitable to the holding, has paid the amount of such share to the *zamindar* or other proprietor, the rent of his holding shall not be enhanced under the Regulation in respect of the said improvement."

les deter-
ning
ount of
enhancement.

Disposal of
applications
under section
19A during
settlement-
proceedings.

Duration
of enhance-
ment.

Saving
where *raiyyat*
contributes
towards cost
of improve-

(Sec. 3.)

11 of 1886.

3. After section 25⁽¹⁾ of the Sonthal Parganas Rent Regulation, 1886, the following shall be inserted, namely:—

11. 1886.
Acquisition
of land by
the Pargana
Rent Regulation
11. 1886.

"Acquisition of land for buildings and other purposes."

"25A. (1) The zamindar or other proprietor of a village, who is desirous of acquiring the holding or part of the holding of any ryot in such village, or any land over which the inhabitants of such village have any common right, for any reasonable purpose having relation to the good of the holding, village or estate, or for the erection of buildings or for any religious, educational or charitable purpose, may apply to the Deputy Commissioner for authority to acquire the same.

Acquisition
of land by
people in
village for
the purpose
of religious,
educational
and other
purposes.

(2) On being satisfied that the purpose stated in the application made under sub-section (1) is reasonable and sufficient, and that the objections, if any, taken to the application are such that they may fairly be disregarded, the Deputy Commissioner may authorize the applicant to take possession of the land on such terms and on payment to the ryot or other persons interested (if any) of such compensation as he thinks fair and reasonable."

REGULATION No. 3 of 1908 [1]

[Sonthal Parganas Settlement (Amendment) Regulation, 1908.]

(16th October, 1908)

A Regulation further to amend the Sonthal Parganas Settlement Regulation.

Whereas it is expedient further to amend the Sonthal Parganas Settlement Regulation; It is hereby enacted as follows:—

1. This Regulation may be called the Sonthal Parganas Settlement (Amendment) Regulation, 1908.

2. For section 6 of the Sonthal Parganas Settlement Regulation the following shall be substituted, namely:—

"6. (1) From the date on which, under section 9, the Lieutenant-Governor declares, by a notification in the Calcutta Gazette, that a settlement shall be made of the whole or any part of the Sonthal Parganas, until the date on which such settlement is declared, by a like notification, to have been completed, no suit shall lie in any Civil Court established under the Bengal, Agra and Assam Civil Courts Act, 1857, in regard to—

- (a) any land or any interest in, or arising out of, land, or
- (b) the rent or profits of any land, or
- (c) any village headship or other office connected with any land,

in the area covered by such first-mentioned notification, nor shall any Civil Court proceed with the hearing of any such suit which may be pending before it.

(2) Between the dates referred to in sub-section (1), all suits of the nature therein described shall be filed before or transferred to an officer appointed by the Lieutenant-Governor under section 2 of the Sonthal Parganas Act, 1855, or section 10 of this Regulation, according as the Lieutenant-Governor may from time to time direct, and such officer shall hear and, even though during the hearing the settlement may be declared to have been completed, determine them.

"6A. (1) Notwithstanding anything contained in section 6, when it appears to any officer empowered thereby to try any such suit that such

[1] Local Government of the Sonthal Parganas, Calcutta, 1908, No. 3 of 1908.

(Secs. 3-5.)

be just and expedient that the suit or any issue arising therein should be tried by a Civil Court established under the Bengal, Agra and Assam Civil Courts Act, 1887, which but for that section, would have had XII of 1887. jurisdiction to try the suit, he may, either on the prayer of the parties or of his own motion, but subject to the control of the officers to whom he is subordinate, make a certificate to that effect and transfer the record, if any, to such Court.

(2) On receipt of any such certificate and on payment of such court-fees as would have been payable if the suit had been originally filed in such Court (if the said fees have not already been paid), the Court shall proceed to hear and determine such suit or issue as if the suit had been originally instituted therein.

(3) Any issue so transferred shall be dealt with, and shall be charged with court-fees, as if it were a separate suit.

(4) The decision of the said Court in any such suit or issue shall be deemed to be a decree within the meaning of section 2 of the Code of XIV of 1882. Civil Procedure, and shall be carried into effect in the manner provided by law for the execution of decrees of such Court.

(5) Every such decision, and every decision given in appeal therefrom, shall be certified by the said Court to the officer by whom the certificate mentioned in sub-section (1) was made, or to such officer as the Lieutenant-Governor may appoint in this behalf; and its purport, so far as relevant, shall thereupon be entered in the record-of-rights."

Partial
repeal of
section 8.

3. In section 8 of the said Regulation the words from "or before any officer" to the end of the section are hereby repealed.

Amendment
of section 11.

4. In section 11 of the said Regulation, for the figures "25" the figures and letter "25A" shall be substituted.

Amendment
of section 13.

5. To section 13 of the said Regulation the following shall be added, namely:—

"For every village shall be drawn up a paper setting forth the custom of the village or tribe in regard to the following facts:—

- (a) the existence of the office of *manjhi* or other village-headship, and the duties and emoluments of each headman, and the customs of succession to the headship by inheritance, election or otherwise;
- (b) the removal or suspension of a headman for misconduct, and the appointment or election to a vacant headship;
- (c) the devolution of the lands held by proprietors or under-proprietors or headmen or cultivated by *rai-yats*, any

(Secs. 6-9.)

custom contrary to the ordinary Hindu or Mahomedan law being noted;

- (d) the tenure of houses in the village, and the payment of ground rents and dues by non-cultivating residents;
- (e) the duties and dues of village-watchmen and other village-servants, and their succession to, and removal from, office,
- (f) the management and usufruct of the waste land and other matters relating to the internal arrangement of villages,

and the said paper shall be deemed to form part of the record of rights "

6. Section 23 of the said Regulation is hereby repealed.

7. Every paper prepared under section 23 of the said Regulation and duly published before the commencement of this Regulation shall be deemed to form and always to have formed part of the record of rights

8. In section 24 of the said Regulation,—

- (a) for the words "in the Original or Appellate Settlement Courts" the words "in the Settlement Courts, within a period of six months from the date of the publication of such record of rights" shall be substituted, and
- (b) the words "before which such objection may be urged or brought on appeal or otherwise" shall be omitted

9. For section 25 of the said Regulation as amended by the North Bengal Parganas Rent Regulation, 1886, the following shall be substituted, namely —

"25. (1) After a period of six months from the date of the publication of the record of rights of any village, such record shall be conclusive proof of the rights and customs therein recorded, other than the rights mentioned in section 27A, except so far as concerns entries in such record regarding which objections by parties interested may still be pending in the Original or Appellate Courts, or may still be open to appeal

(2) Notwithstanding anything contained in sub-section (1), the Settlement Officer may, at any time before the settlement is declared by a notification in the Calcutta Gazette to have been completed,—

- (a) inquire into and correct any material error in such record, and
- (b) revise any order or decision passed by himself or by an Assistant Settlement Officer

Repealed
section 23
Public Notice
value of
papers
prepared
under
section 23
Amended
section 24

Repealed
section 25
Amended
section 25

(Sec. 10.)

(2) No transfer in contravention of sub section (1) shall be registered, or shall be in any way recognized as valid by any Court, whether in the exercise of civil, criminal or revenue jurisdiction

(3) If at any time it comes to the notice of the Deputy Commissioner that a transfer in contravention of sub section (1) has taken place, he may, in his discretion, evict the transferee and either restore the transferred land to the *rayat* or any heirs of the *rayat* who has transferred it, or re settle the land with another *rayat* according to the village custom for the disposal of an abandoned holding

Provided—

- (a) that the transferee whom it is proposed to evict has not been in continuous cultivating possession for twelve years,
- (b) that he is given an opportunity of showing cause against the order of eviction, and
- (c) that all proceedings of the Deputy Commissioner under this section shall be subject to control and revision by the Commissioner.

“28 If any person,—

Provided

- (a) being a proprietor, fails to repair and maintain any *khaz*, dykes, drains or tanks which he is bound, by any custom entered in the record of rights, to repair and maintain, or,
- (b) being a proprietor or a headman, exacts from any *rayat* tolls, *abacals*, *salam*, *kayals*, forced labour or the like, the exaction of which is forbidden by any such custom, or,
- (c) being a headman, fails to perform any of the prescribed police duties, or,
- (d) being a proprietor or a headman, fails to repair, with the assistance of the *rayats* any dykes, drains, tanks, village paths or boundary marks which he and they are bound, by any custom entered in the record of rights, to repair, or fails to preserve any of the recorded carrying or grazing grounds, or,
- (e) being a proprietor or a headman, fails to report to competent authority any transfer of village land made in contravention of section 27, sub-section (1), or
- (f) being a *rayat*, fails to assist the proprietor or headman in the repair of any village dykes, drains, tanks, paths or boundary marks which he is bound, by any custom entered in the record of rights, to assist the proprietor or headman

(Sec. 10.)

in repairing, or encroaches on any of the recorded camping or grazing grounds, or,

(g) being a proprietor, headman or *raiyat*, cuts down any village-trees which he is forbidden by any such custom to cut, or otherwise uses, or prevents the use of, village-forest in contravention of any such custom,

he shall be liable to a fine which may extend to fifty rupees, and, in the case of a continuing offence, to a further fine not exceeding one rupee for each day during which the offence continues.'²

REGULATION 4 of 1910.

(THE SONTAL PARGANAS RURAL POLICE REGULATION, 1910)

CONTENTS

SECTION.

1. Short title and extent.
2. Power to vary local extent of Regulation
3. Definitions.
4. Formation of villages and circles, and appointment of *sardars*
5. Deputy *sardars*
6. Number of *chaulidars* for each village
7. Salaries and equipment of *sardars*, deputy *sardars* and *chaulidars*.
8. Payments by *ramindars* or under tenure-holders.
9. Village-assessments.
10. List of payments
11. Nature and amount of assessment.
12. Alteration of village-assessment, and preparation of revised list of monthly payments.
13. Revision and confirmation of assessment
14. Assessment and customary payments realizable in instalments
15. Collection of assessment and customary payments.
16. Payment of dues by persons whose duty it is to make collections.
17. List of defaulters and application for distraint.
18. Decision of objections to list of defaulters.
19. Distress warrants
20. Seizure of property and proclamation of sale.
21. Sale of property and application of proceeds.
22. No distraint after one year
23. Delegation of Deputy Commissioner's powers.
24. District *Chaulidar* Reward Fund
25. Power to make rules.
26. Repeal.

THE SCHEDULE.—FORM OF DISTRESS WARRANT.

REGULATION No. 4 OF 1910 [1]

(Sonthal PARGANAS RURAL POLICE REGULATION, 1910.)

(20th June, 1910.)

A Regulation to provide for the organization and maintenance of the Rural Police in the Sonthal Parganas.

Whereas it is expedient to provide for the organization and maintenance of the rural police in the Sonthal Parganas; It is hereby enacted as follows:—

1. (1) This Regulation may be called the Sonthal Parganas Rural Police Regulation, 1910; and Short title and extent.

(2) It extends to the whole of the Sonthal Parganas, as described in the Schedule to the Sonthal Parganas Act, 1857,[2] and in the Notification of the Governor General in Council, No 178, dated the 12th March 1872, published at page 240 of Part I of the Gazette of India of the 16th *idem*[3].

2. The Local Government may, by notification in the Calcutta Gazette, withdraw this Regulation, or any part thereof, from any portion of the Sonthal Parganas, and may extend this Regulation, or any part thereof, to any portion of the Sonthal Parganas from which the same has been so withdrawn. Power to vary local extent of Regulation.

3. In this Regulation, unless there is anything repugnant in the subject or context,— Definitions.

(a) "Deputy Commissioner" means the Commissioner of the Sonthal Parganas, and includes any officer appointed by the Local Government to perform the functions of the Deputy Commissioner under this Regulation.

(b) "under-tenure" includes also the tenures known as *mularani*, *shikmi* and *khori-o-posh*: and

(c) "zamindar" means the person whose name is registered in the general register of estates paying revenue directly to the Government as the proprietor of an estate so paying

[1] LOCAL EXTENT.—This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1857 (17 of 1857), sec. 375; see s. 1 (2) of the Regulation.

[2] The Schedule is printed *ante*, p. 375, and the Notification is published in the Gazette of India, 1872, Part I, p. 24. The definitions in the Schedule and the Act are identical.

(Secs. 11-12.)

the Deputy Commissioner may appoint in this behalf, shall prepare a list showing—

- (a) the amount payable by each person liable to assessment in the village, and
- (b) such customary payments referred to in proviso (d) to section 7 as have not been discontinued by order of the Deputy Commissioner.

(2) If, within three months after the Deputy Commissioner has fixed the amount payable by any village, the said list has not been prepared, the Deputy Commissioner may adopt either or both of the following courses, namely,—

- (i) he may impose a daily fine of one rupee on the person whose duty it is to prepare the list, to be paid until the list is prepared;
- (ii) he may cause the list to be prepared by such other means as he thinks fit.

(3) Every list prepared under this section shall, with the sanction of the Deputy Commissioner, be published at some conspicuous place within the village to which it relates, and shall remain in force until altered with the sanction of the Deputy Commissioner.

Nature and amount of assessment.

11. The amount at which each person is assessed under section 10, clause (a), shall be fixed according to the circumstances and the property to be protected of that person:

Provided as follows:—

- (a) the amount to be assessed on any one person shall not exceed one rupee *per mensem* in the case of a *zamindar*, under-tenure-holder or trader, or eight annas *per mensem* in the case of an ordinary *raiyyat*; and
- (b) every person who is, in the opinion of the Deputy Commissioner, too poor to pay half an anna *per mensem* shall be exempted from assessment.

Alteration of village-assessment, and preparation of revised list of monthly payments.

12. (1) The Deputy Commissioner may, from time to time, alter the amount assessed on any village.

(2) Before the month of October in the year immediately preceding that in which any alteration made under sub-section (1) is to take effect, the Deputy Commissioner shall give notice of the alteration to the person or persons whose duty it is to prepare the list prescribed by section 10;

(Secs. 13-19)

and thereupon a revised list of the sums payable by each person shall be prepared in the manner prescribed by that section.

13. Any person who is dissatisfied with the amount at which he has been assessed may apply to the Deputy Commissioner, either orally or in writing, for a revision of the assessment; and the Deputy Commissioner may amend, remit or confirm the assessment.

14. Every amount assessed under this Regulation, and all customary payments referred to in section 10, clause (b), shall be realizable by such instalments and on such dates as may be fixed by the Deputy Commissioner.

15. (1) The headman or other person whose duty it is to prepare the list prescribed by section 10 shall collect the amount payable under section 14 by each of the persons named in the list, and shall grant receipts for the same.

(2) In any village in which two or more persons are charged with the duty of preparing the list prescribed by section 10, those persons, or, if they fail to make the appointment, the Deputy Commissioner, shall appoint one of their number to receive the collections from the others and keep the accounts of the collections.

16. The person whose duty it is to make the collections referred to in section 15 shall pay, through such officers and on such dates as the Deputy Commissioner may direct, the dues to meet which the making of such collections is authorized.

17. As soon as may be after any payment has become due under section 14, the person whose duty it is to collect such payments shall prepare a list of the persons who have failed to pay the amounts due from them, and shall apply to the Deputy Commissioner for the attachment and sale of any moveable property belonging to the defaulters, at the same time publishing a copy of the list at some conspicuous place within the village to which it relates.

18. Where any person whose name has been included in a list of defaulters prepared under section 17 desires to dispute his liability to pay the amount mentioned therein, or any part thereof, he may, within fifteen days of the publication of the copy of the list within the village, apply to the Deputy Commissioner, either orally or in writing, stating the grounds of his objection; and the Deputy Commissioner shall examine his objection and pass such order thereon as he may think fit.

19. (1) Whenever the Deputy Commissioner imposes a tax under section 10, sub-section (2), he may make a warrant in the form set forth in the Schedule

(Secs. 20-24.)

(2). If any person whose duty it is to make the collections referred to in section 15, fails to pay any dues as directed under section 16, the Deputy Commissioner, if he is satisfied that such failure was due to the default of such person, may issue a warrant in the said form.

(3) Whenever the Deputy Commissioner receives a list of defaulters prepared under section 17, he shall, subject to any orders passed under section 18, issue a warrant in the said form.

(4) Every warrant issued under this section shall be signed by the Deputy Commissioner and shall authorize the person therein named in that behalf to recover, by distraint and sale of a sufficient portion of the moveable property of each of the defaulters, other than plough-cattle and tools and implements of trade or agriculture the amount due from him, together with a sum equal to a proportionate share of the costs of distraint and sale.

Seizure of
property and
proclamation
of sale.

20. (1) The person so authorized shall seize and keep in his own custody such portion of the moveable property of the defaulters as he may think sufficient, and shall make an inventory of all moveable property so seized, and shall, at the same time, make proclamation, by beat of drum, of the time and place where the property will be sold.

(2) The time of sale fixed under sub-section (1) shall be not less than five, nor more than ten, days from the date of the proclamation thereof.

Sale of pro-
perty and
application of
proceeds.

21. Where a defaulter does not, within the time so proclaimed, pay the amount due from him, together with his share of the costs of the distraint, the moveable property distrained or a sufficient portion thereof shall be sold by public auction at the time and place so proclaimed, and the proceeds shall be applied in discharge of the said amount and costs, the surplus (if any) being returned to the owner of the distrained property.

No distraint
after one
year.

22. No amount payable under this Regulation shall be recovered by distraint and sale under the foregoing provisions after the expiration of one year from the date on which the same became due.

Delegation
of Deputy
Commis-
sioner's
powers.

23. The Deputy Commissioner may, from time to time, by order in writing, with the previous sanction of the Commissioner, delegate all or any of his powers under this Regulation to any Magistrate subordinate to him, or to the Superintendent of Police, and may in like manner withdraw any order so made.

District
Chaukidari

24. All fines levied from *sārdars* and *chaūkidars* under this Regulation shall be credited to a fund, to be called the District *Chaukidarī*

(Secs. 25-26. *The Schedule.*)

Reward Fund, the control over which shall rest with the Deputy Com-
missioner. Reward Fund.

25. (1) The Local Government may make rules to carry out the Power to make rules.
purposes and objects of this Regulation.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) regulate the appointment of *sardars*, deputy *sardars* and *chaukidars*, and their punishment, whether by dismissal, suspension or fine;

(b) determine the duties to be performed by *sardars*, deputy *sardars* and *chaukidars*;

(c) determine and regulate the method and times for paying *sardars*, deputy *sardars* and *chaukidars* their salaries;

(d) provide for the equipment of *sardars*, deputy *sardars* and *chaukidars*;

(e) regulate the mode of assessing and collecting the amounts payable under this Regulation; and

(f) regulate the payment of rewards out of the District *Chaukidars* Reward Fund.

26. The Sonthal Parganas Rural Police Regulation, 1900, is hereby repealed.

THE SCHEDULE.

(See section 19.)

FORM OF DISTRESS-WARRANT.

To

Whereas the several persons named in the following list have made default in payment of the sums in the said list set opposite to their respective names:

You are hereby authorized and required to recover, by distress and sale of a sufficient portion of the mortgageable property of the said defaulters,

REGULATION No. 4 of 1912.[¹]

[Sonthal Parganas Justice (Amendment) Regulation, 1912.]

(27th March, 1912.)

A Regulation further to amend the Sonthal Parganas Justice Regulation, 1893.

Whereas it is expedient further to amend the Sonthal Parganas Justice Regulation, 1893; It is hereby enacted as follows:—

1. (1) This Regulation may be called the Sonthal Parganas Justice (Amendment) Regulation, 1912. Short title and commencement.

(2) It shall come into force on such date as the Local Government may, by notification[²] in the official Gazette, appoint in this behalf.

2. For clause II of section 4 of the Sonthal Parganas Justice Regulation, 1893, the following shall be substituted, namely:— Amendment of section 4, Regulation V of 1893.

“II.—The Sonthal Parganas shall be a sessions division, the Court of Session and the Sessions Judge for that division shall be such Court of Session and Sessions Judge as the Local Government may from time to time appoint by notification in the official Gazette, and the Court so appointed shall sit within the Sonthal Parganas.”

[¹] LOCAL EXTENT.—The local extent of this Regulation is the same as that of Regulation 5 of 1893.

[²] This Regulation was brought into force on the 1st April, 1912; see the B. and O. Gazette, 1912, Part I, p. 12.

CONTENTS.

CHAPTER I.

PRELIMINARY.

- Sections.
1. Short title and commencement.
2. Definitions.

CHAPTER II.

LAW APPLICABLE IN THE DISTRICT.

3. Enactments in force in the district.
4. Power to exempt the district from operation of enactments.
5. Power to declare other enactments to be in force.
6. Power to continue enactments with necessary alterations.
7. Proceedings when not violated for irregularities.
8. Execution, outside the district, of sentences passed therein.

CHAPTER III.

CONSTITUTION AND JURISDICTION OF COURTS

9. Sub-divisions of the district.
10. Ordinary Courts.
11. Establishment of other Courts.
12. Control over Courts.
13. Local jurisdiction and powers of Courts and officers.
14. Powers of Courts.

CHAPTER IV.

ADMINISTRATION OF CRIMINAL JUSTICE.

15. Court of Session.
16. Powers of Court of Session to take cognizance of offences as a Court of criminal jurisdiction.
17. Sessions trials with jury or otherwise.
18. Power to try cases of a preliminary nature.
19. Appointment of judges.
20. Appointment of judges to the district.
21. Powers of the District Magistrate.
22. Powers of the District Magistrate.
23. Powers of the District Magistrate.
24. Powers of the District Magistrate.
25. Powers of the District Magistrate.
26. Powers of the District Magistrate.
27. Powers of the District Magistrate.
28. Powers of the District Magistrate.
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93. Powers of the District Magistrate.
94. Powers of the District Magistrate.
95. Powers of the District Magistrate.
96. Powers of the District Magistrate.
97. Powers of the District Magistrate.
98. Powers of the District Magistrate.
99. Powers of the District Magistrate.
100. Powers of the District Magistrate.

REGULATION 3 of 1913.

(THE ANGLO LAWS REGULATION, 1913.)

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title and commencement.
 2. Definitions.
-

CHAPTER II.

LAW APPLICABLE IN THE DISTRICT.

3. Enactments in force in the district.
 4. Power to exempt the district from operation of enactment.
 5. Power to declare other enactments to be in force.
 6. Power to construe enactments with necessary alterations.
 7. Proceedings when not vitiated for irregularities.
 8. Execution, outside the district, of sentences passed therein.
-

CHAPTER III.

CONSTITUTION AND JURISDICTION OF COURTS.

9. Sub divisions of the district.
 10. Ordinary Courts.
 11. Establishment of other Courts.
 12. Control over Courts.
 13. Local jurisdiction and powers of Courts and officers.
 14. Powers of Courts.
-

CHAPTER IV.

ADMINISTRATION OF CRIMINAL JUSTICE.

15. Court of Session.
16. Power of Court of Session to take cognizance of offences as a Court of original jurisdiction.
17. Sessions trials without jury or assessors.
18. Officer in charge of a police station.
19. Detention by police.
20. Statement made to police officer.
21. Prosecutions for State offences or for false evidence by persons to whose pardon has been tendered.
22. Tender of pardon.
23. Limitation of appeal.
24. Restriction on appeal.
25. Restrict and officers against public justice or relating to documents.
26. Conduct of prosecution.
27. Adjournment, on applications, for transfer of case.

SECTIONS.

28. Commissioner's and Deputy Commissioner's power of revision.
29. Saving of provisions relating to European British subjects.

CHAPTER V.

ADMINISTRATION OF CIVIL JUSTICE.

30. Law to be administered.
31. Interest.
32. Reference by Court to village *panchayat*.
33. Reference by Court to arbitration.
34. Bar to arbitration in certain cases and limitation of awards.
35. Number and appointment of arbitrators.
36. Application of Second Schedule of Code of Civil Procedure, 1908.
37. Use and control of rivers, etc.
38. Appeal.
39. Revision.

CHAPTER VI.

RECOVERY OF PUBLIC DEMANDS.

40. Certificate that public demand is in arrear.
41. Issue of notice.
42. Mode of realization.
43. Sale of immoveable property of *raiyat*.
44. Deputy Commissioner's and Commissioner's power of revision.
45. Register of proceedings.

CHAPTER VII.

POLICE.

46. Power to appoint and dismiss village-*chaukidars*.
47. Constitution of villages and realization of *chaukidari* dues.
48. Penalty for village-*chaukidar* withdrawing from his duties, etc.
49. Power to fine village-*chaukidars* departmentally.
50. Duties of village-*chaukidar*.
51. Procedure of arrest by village-*chaukidar*.
52. Appeal from order of Superintendent of Police.
53. Application of the Police Act, 1861.
54. Power to make rules.

CHAPTER VIII.

REGISTRATION OF DOCUMENTS.

55. Sub-Registrars.
56. Registrar.
57. Power to direct compulsory registration in certain cases.
58. Power to make rules.

CHAPTER IX.

LANDLORD AND TENANT.

59. Meaning of "*raiyat*."
60. Raising of rent of *raiyati*-land.

Sections.

- 61. Restrictions on transfer of their rights by tenure-holders or *rayats*.
- 62. Registrations on sale of *rayat's* rights under orders of Court.
- 63. Procedure on surrender or abandonment of holding.
- 64. Ejectment.
- 65. Delegation of powers of Deputy Commissioner
- 66. Control by Commissioner
- 67. Power to make rules

CHAPTER X.**SANITATION.**

- 68. Power to make rules as to sanitation.

CHAPTER XI.**MISCELLANEOUS.**

- 69. Power of Deputy Commissioner to summon landholders, etc.
- 70. Auction sales and liability of auction purchasers.
- 71. Control of agents and petition writers.
- 72. Legal practitioners.
- 73. Power of Court to grant exemption from payment of court fees.
- 74. Oath or solemn affirmation.
- 75. Repeal.

THE SCHEDULE—ENACTMENTS DECLARED IN FORCE IN THE DISTRICT OF ANGUL ON FIRST JUNE 1913.

REGULATION No. 3 of 1913.[¹]

(ANGUL LAWS REGULATION, 1913.)

(10th October, 1913.)

A Regulation to provide for the peace and good government of the Angul District.

Whereas it is expedient to consolidate and amend the law providing for the peace and good government of the Angul District in the Orissa Division; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Regulation may be called the Angul Laws Regulation, 1913; and

Short title
and cons.
enactment.

(2) It shall come into force on such day [²] as the Local Government may, by notification in the Bihar and Orissa Gazette direct.

2. In this Regulation and in every enactment in force in the district, unless there is anything repugnant in the subject or context,—

Definition

(a) "accountant" means any person charged with the duty of keeping the account of any demand due to the Government and accruing within the district;

(b) "Deputy Collector and Deputy Magistrate" includes any Sub-Deputy Collector and Sub-Deputy Magistrate who is specially empowered by the Commissioner to discharge the functions of a Deputy Collector and Deputy Magistrate;

(c) "Deputy Commissioner" means the officer in chief executive charge of the district, by whatever other title he may be designated;

(d) "district" means the district comprising Angul and the area known as the Khondmals;

(e) "District Court" and "District Judge" means the Court of the Deputy Commissioner and the Deputy Commissioner, respectively;

[¹] LOCAL GOVERNMENT.—This Regulation extends only to the district of Angul—see *provisio*.
[²] G.O., 1st January 1914, see Bihar and Orissa Gazette, 1913, Part II, p. 1213, notice.
Law No. 611, dated 25th October, 1913.

(Secs. 3-5.)

- (f) "High Court" means with reference to criminal proceedings against European British subjects or persons jointly charged with such subjects, the High Court of Judicature at Fort William in Bengal; and, in any other case, the Court of the Commissioner;
- (g) "Sub-divisional Officer" means the Officer in charge of a Sub-division of the district; and
- (h) "Superintendent of Police" means the chief officer in charge of the Angul District Police, by whatever other title he may be designated.

CHAPTER II.

LAW APPLICABLE IN THE DISTRICT.

Enactments
in force in
the district.

3. (1) So much of each of the enactments specified in the Schedule as is at the commencement of this Regulation in force in the territories to which the enactment generally applies shall, in the form in which it is for the time being so in force, be deemed to be in force in the district, or in such part thereof as is mentioned in the 3rd column of the said Schedule, subject to any modifications made by this Regulation.

(2) An enactment not comprised in the Schedule shall not be deemed to be in force in any part of the district, unless it is expressed by special mention of the district of Angul or any part of that district to extend thereto or is, after the commencement of this Regulation, declared in force therein or extended thereto in exercise of the powers conferred by section 5 of this Regulation or by any other enactment for the time being in force in the district.

Explanation.—Enactments not comprised in the Schedule, and not declared in force or extended as aforesaid, shall not be deemed to be in force in the district or any part thereof merely on the ground that they are referred to in some enactment which is so in force.

Power to
exempt the
district from
operation of
enactment.

4. Subject to the control of the Governor General in Council, the Local Government may, by notification in the Bihar and Orissa Gazette, declare that any enactment which is comprised in the Schedule shall no longer be in force in the district; and, on the publication of such notification, such enactment shall be repealed in the said district.

Power to
declare other
enactments

5. Subject to the control of the Governor General in Council the Local Government may, by notification in the Bihar and Orissa Gazette, declare

(Secs. 6-10)

that any enactment not comprised in the Schedule shall be in force in the district or any part thereof, and, on the publication of such notification, such enactment shall be deemed to be comprised in the Schedule.

6. For the purpose of facilitating the application of any enactment for the time being in force in the district, any Court may construe such enactment with such alterations, not affecting the substance thereof, as may be necessary or proper to adapt it to the matter before the Court.

7. Notwithstanding anything in this Regulation or in the enactments comprised in the Schedule, no finding, sentence, judgment, decree or order of any Court shall be reversed, set aside or modified on appeal, revision or otherwise, by reason of any irregularity in procedure, unless such irregularity has, in the opinion of the Court, caused a failure of justice.

8. Any person liable to be imprisoned in any prison in the district or to be transported, under any order or sentence passed by any officer or Court duly empowered under this Regulation, may be confined in any prison in British India, or may be transported to any place which the Local Government may select.

CHAPTER III

CONSTITUTION AND JURISDICTION OF COURTS

9. The district shall be divided, for Civil, Criminal and Revenue purposes, into the Sadar or Angul sub-division and the Khondwals sub-division.

10. There shall be the following Courts in or for the district, and they shall be subject to the general superintendence and control of the Local Government —

- (1) the Court of the Honorary Magistrate or Bench of Magistrates,
- (2) the Court of the Sub-Deputy Collector and Sub Deputy Magistrate,
- (3) the Court of the Deputy Collector and Deputy Magistrate,
- (4) the Courts of the Sub-divisional Officers of Angul and of the Khondwals,
- (5) the Court of the Deputy Commissioner; and
- (6) the Court of the Commissioner.

The Angul Laws Regulation, 1913.

(Secs. 11-14.)

[Reg.]

Establishment of other Courts.

Control over Courts.

11. The Local Government may establish any other Courts and may invest it with such powers as it may prescribe to be exercised in the district.

12. (1) The immediate control and supervision of the Court of the Deputy Commissioner and of any other Court of equal or similar powers that may hereafter be established in accordance with the provisions of section 11 shall be vested in, and every such Court shall be subordinate to, the Court of the Commissioner.

(2) The immediate control and supervision of the Courts mentioned in clauses (1) to (4) of section 10, and of any other similar Court that may hereafter be established under section 11, shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner.

Local jurisdiction and powers of Courts and officers.

Powers of Courts.

13. The Local Government may, by notification in the Bihar and Orissa Gazette, define the local limits of the jurisdiction and the powers of any Court constituted under this Regulation, or of any officer of the Government employed in the district.

14. (1) The Courts mentioned in section 10 shall ordinarily have the powers specified in the following table:—

Name of Court.	Revenue powers.	Criminal powers.	Civil powers.
1	2	3	4
I.—The Court of the Honorary Magistrate or Bench of Magistrates.	.....	The ordinary powers of a Magistrate of the third class, as defined in the Code of Criminal Procedure, 1898.	.....
II.—The Court of the Sub-Deputy Collector and Sub-Deputy Magistrate.	Powers corresponding to those of a Deputy Collector under any law for the time being in force in the district.	The ordinary powers of a Magistrate of the second class, as defined in the Code of Criminal Procedure, 1898.	.....
III.—The Court of the Deputy Collector and Deputy Magistrate.	Ditto	Ditto	Powers corresponding to those of a Civil Court, under the Code of Civil Procedure, 1908, to try original civil suits of which the value does not exceed one hundred rupees.

V of 1908.

of 1908.

V of 1908.

(Sec. 11.)

Value of Court.	Executive powers.	Criminal powers.	Civil powers.
1	2	3	4
IV—The Court of the Sub-divisional Officers of Angul and of the Khondmals.	Powers corresponding to those of a Deputy Collector under any law for the time being in force in the district.	The ordinary powers of a Sub-divisional Magistrate of the first class, as defined in the Code of Criminal Procedure, 1873.	Powers corresponding to those of a Civil Court, under the Code of Civil Procedure, 1879, to try original civil suits of which the value does not exceed five hundred rupees. Powers of a Court of a Small Causes under the Provincial Small Cause Courts Act, 1875; the limit of powers in such case to be fixed by the Local Government.
V—The Court of the Deputy Commissioner.	Powers corresponding to those of a Collector under any law for the time being in force in the district.	The ordinary powers of a District Magistrate and of a Sessions Judge, under the Code of Criminal Procedure, 1873.	Powers corresponding to those of a District Judge under the Code of Civil Procedure, 1879, to try original civil suits and appeals without limit as to the value.
VI—The Court of the Commissioner.	Powers corresponding to those of a Commissioner and of the Board of Revenue under any law for the time being in force in the district.	The ordinary powers of a High Court, under the Code of Criminal Procedure, 1873, as to proceedings against Foreign British subjects or persons partly charged with Foreign British subjects.	Powers corresponding to those of a High Court under the Code of Civil Procedure, 1879.

(2) The Local Government may, by notification in the Bihar and Orissa Gazette,—

- (a) confer upon any Court mentioned in column 1 of the following table any further powers in addition to those specified in respect of such Court in that table, or
- (b) authorize the Board of Revenue to exercise powers in addition conferred upon any such Court in all or any matters relating to revenue.

(Secs. 15-21.)

CHAPTER IV.

ADMINISTRATION OF CRIMINAL JUSTICE.

Court of
Session.

15. The district shall be a sessions division, the Court of the Deputy Commissioner shall be the Court of Session, and the Deputy Commissioner shall be the Judge of that Court.

Power of
Court of
Session to
take cogni-
zance of
offences as a
Court of
original
jurisdiction.

16. As Sessions Judge the Deputy Commissioner may take cognizance of any offence as a Court of original jurisdiction without the accused person being committed to him for trial by a Magistrate, and, when so taking cognizance of an offence, shall, subject to the provisions of this Regulation, follow the procedure prescribed by the Code of Criminal Procedure, 1898, for the trial of warrant cases by Magistrates. V of 1898.

Sessions trials
without jury
or assessors.

17. A trial before a Court of Session may be without a jury or the aid of assessors.

Officer in
charge of a
police-
station.

18. (1) The police-officer of highest rank present at a police-station shall be deemed to be the officer in charge of such police-station.

(2) Any police-officer may exercise the powers conferred, by section 5b of the Code of Criminal Procedure, 1898, on an officer in charge of a police-station. V of 1898.

Detention
by police.

19. (1) Notwithstanding anything contained in section 57 or section 61 of the Code of Criminal Procedure, 1898, an officer in charge of a police-station may detain a person arrested without warrant for such time as in all the circumstances of the case is reasonable. V of 1898.

(2) When such officer of his own authority detains any such person in custody for a longer period than twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the nearest Magistrate's Court, he shall, in the report prescribed by section 62 of the Code of Criminal Procedure, 1898, state his reasons for prolonging the detention of such person, and, where the detention extends beyond three days, shall submit further reports of the reasons therefor at such intervals as the Magistrate to whom the report under section 62 was submitted may, by general or special order, direct. V of 1898.

Statement
made to
police-officer.

20. Nothing in the first paragraph of sub-section (1) of section 162 of the Code of Criminal Procedure, 1898, shall be construed to apply to a statement made to a police-officer who is also a Magistrate. V of 1898.

Prosecution
for State
offences or
false

21. Notwithstanding anything in any law for the time being in force, a prosecution for an offence against the State, or for the offence of giving false evidence in respect of a statement made by a person who

(Sect. 22-25)

has accepted a tender of pardon, may be entertained upon complaint made by order of, or under authority from, the Deputy Commissioner

22. Any Magistrate tendering a pardon to an accomplice under section 337 of the Code of Criminal Procedure, 1898, may, notwithstanding anything contained in that section, try the case himself

23. Notwithstanding anything contained in the Indian Limitation Act, 1908, the period of limitation for an appeal from any sentence or order in any criminal case shall be thirty days from the date of such sentence or order.

24. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no appeal shall lie in any case in which the Deputy Commissioner, exercising the powers of a District Magistrate or of a Court of Session, passes a sentence of imprisonment for a term not exceeding three months, or of fine not exceeding one hundred rupees, or of whipping only

25. Where an offence referred to in section 195 of the Code of Criminal Procedure, 1898, is committed before the presiding officer of a Criminal Court, or in contempt of his authority, or is brought to his notice in the course of a judicial proceeding, he may himself try for each offence the person accused thereof

26. Notwithstanding anything contained in section 140 of the Code of Criminal Procedure, 1898, any Court may allow any police officer to conduct a prosecution

27. Any Court may, for reasons stated in writing, refuse to exercise in the manner mentioned in sub-section (A) of section 209 of the Code of Criminal Procedure, 1898, the power of postponement or adjournment given by section 344 of that Code

28. In the case of any proceeding the record of which has been called for and examined by himself, or which has been reported for review under section 135 of the Code of Criminal Procedure, 1898, or which, for any other reason, comes to his knowledge, the Deputy Commissioner or the District Magistrate may, in his discretion, exercise any of the powers conferred on a Court of appeal by sections 113, 121, 123, 127 and 128 of that Code, and may, for each such case, as he may decide, enhance the sentence

Provided that—

- (i) no order shall be made under this section which shall be subject to appeal, and
- (ii) the accused, who has been called upon to appear before the court, shall be allowed to defend.

(Secs. 29-31.)

- (2) nothing in this section shall apply to an entry made under section 273 of that Code, or shall be deemed to authorize the conversion of a finding of acquittal into one of conviction.

Saving of provisions relating to European British subjects!

29. Nothing in this Chapter with respect to procedure in inquiries or trials, or with respect to sentences or appeals therefrom, or the period of limitation for such appeals or to the enhancement or execution of sentences, shall be construed to affect the Code of Criminal Procedure, V of 1898, 1898, or the Indian Limitation Act, 1908, in its application to European IX of 1908. British subjects or to persons jointly charged with such subjects.

CHAPTER V.

ADMINISTRATION OF CIVIL JUSTICE.

Law to be administered.

30. (1) When in any civil proceeding it is necessary to decide any question regarding succession, inheritance, preemption, caste, special property of females, betrothal, marriage, adoption, guardianship, minority, bastardy, family relationship, wills, legacies, gifts, partitions or any other religious or social usage or institution,

the Buddhist law, in cases where the parties are Buddhists, the Muhammadan law, in cases where the parties are Muhammadans, and the Hindu law, in cases where the parties are Hindus, shall form the rule of decision,

except in so far as such law has, by any enactment in force in the district, been amended or abolished, or is opposed to any custom having the force of law in the district.

(2) In cases not provided for by sub-section (1), or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Interest.

31. In any suit instituted after the commencement of this Regulation,—

- (a) interest on any debt or liability for a period exceeding one year shall not be decreed at a higher rate than two *per cent per mensem*, notwithstanding any agreement to the contrary, and no compound interest arising from any adjustment of account which is not final, or from any claim by bond, decree or otherwise, which has been increased on renewal without the passing of fresh consideration, shall be decreed; and,

(Secs. 32-37.)

- (b) the total interest decreed on any loan or debt shall not exceed one-fourth of the principal sum, if the period be not more than one year, and shall not in any other case exceed the principal of the original loan or debt.

32. The Court may at any time, of its own motion, for reasons to be recorded in writing, refer any matter arising in any suit to the arbitration of any village *panchayat* which has been vested by the Deputy Commissioner with powers in this behalf.

33. Where any suit involves—

- (a) the examination or adjustment of accounts, or
(b) questions of pedigree or local caste or of local or family custom, or
(c) any other question of family law,

the Court may, of its own motion or on the application of any of the parties, and after recording its reasons in writing, refer to arbitration any matter of difference between the parties.

34. Notwithstanding anything contained in Schedule II of the Code of Civil Procedure, 1908,—

- (a) no matter in which any settlement proceeding or any interest of the Government is involved shall be referred to arbitration;
(b) no award which is contrary to any of the provisions of this Regulation shall have any effect

35. (1) Whenever any matter is referred to arbitration, under section 33 or under the Second Schedule to the Code of Civil Procedure, 1908, three arbitrators shall be appointed, namely, one by the plaintiff, one by the defendant, and one by the Court

(2) The Court shall consider any objection that may be made by the plaintiff or the defendant to any appointment within seven days from the date of such appointment, and may, if it thinks fit, direct that a fresh appointment be made

36. Subject to the modifications contained in sections 32 to 35, the provisions of the Second Schedule of the Code of Civil Procedure, 1908, shall, so far as may be, apply to all references to arbitration made in accordance with the provisions of this Regulation.

37. The Crown shall be presumed, until the contrary is proved, to be entitled to the exclusive use and control of—

- (a) the water of all rivers and streams flowing in natural channels,

(Secs. 38-40.)

- (b) all natural collections of water, and
- (c) all tanks and irrigation-embankments belonging to, or constructed wholly or in part by or at the expense of, the Government,

within the district.

Appeal.

38. (1) An original decree or order made by the Court of a Sub-divisional Officer in any civil or revenue suit, the value of which does not exceed fifty rupees, shall, subject to the provisions of this Regulation with respect to revision, be final.

(2) From every other decree or order made by the Court of a Sub-divisional Officer, and from every decree or order made in any civil or revenue suit by any other Court subordinate to the Court of the Deputy Commissioner, an appeal shall lie to the Court of the Deputy Commissioner.

(3) An original decree or order made by the Court of the Deputy Commissioner in any civil or revenue suit, the value of which does not exceed five hundred rupees, shall, subject to the provisions of this Regulation with respect to revision, be final.

(4) From every other original decree or order made by the Court of a Deputy Commissioner in any civil or revenue suit, an appeal shall lie to the Court of the Commissioner.

(5) Save as provided by sub-section (6), and subject to the provisions of this Regulation with respect to revision, every appellate decree or order of the Court of the Deputy Commissioner in any civil or revenue suit shall be final.

(6) An appeal from an appellate decree or order of the Court of the Deputy Commissioner in a civil or revenue suit, the value of which exceeds one thousand rupees, and in which the Deputy Commissioner has reversed or modified the orders of the Lower Court, shall lie to the Court of the Commissioner.

Revision.

39. The Commissioner or the Deputy Commissioner may, of his own motion or otherwise, call for the record of any civil or revenue case decided by any Court under his control and supervision, and may pass such order thereon as he may think fit.

CHAPTER VI.

RECOVERY OF PUBLIC DEMANDS.

40. Whenever—

- (a) any sum due to the Government, or

Certificate
that public
demand is
in arrear.

(Secs. 11-11.)

(b) any rent due to a *sardar* who, under the terms of the settlement made with him, has previously paid the amount thereof to the Government, or

(c) any plough-contribution due to a *sardar* or *mutha malik* who has previously paid the amount thereof to the Government,

remains unpaid on the date next following that on which payment is due, the accountant shall certify in writing to the Sub-divisional Officer the fact of the arrear and the amount due.

41. (1) On receipt of any such certificate the Sub-divisional Officer ^{may} after making such inquiry as he thinks fit and if he be satisfied ^{thereof} that the demand specified in the certificate or any part thereof is justly due, issue a notice to the defaulter ordering him within a given time,—

(a) to pay the amount specified in the notice, or

(b) to appear before him and state any objection he may have to paying such amount or any part thereof

(2) When any objection is made under clause (b) of sub-section (1), the Sub-divisional Officer shall, after making such inquiry as may be necessary, determine the same.

42. The Sub-divisional Officer may recover any amount ascertained ^{to be due} in accordance with the provisions of section 11, together with ^{all cost of realizing the same,} by attachment and sale of any property belonging to the defaulter.

43. (1) The Sub-divisional Officer shall not proceed against any ^{immovable} property of a *raiyat*, unless and until he has satisfied himself ^{that the} *raiyat* has no moveable property by the sale of which the sum ^{due from him} can be realized.

(2) Before any immovable property of a *raiyat* is sold under the provisions of this Chapter, the case shall be reported for the orders of the Deputy Commissioner. On receipt of such report, the Deputy Commissioner may,

(a) order the sale of such property, or

(b) attach such property and make such arrangements as he thinks fit to liquidate the debt.

44. All the proceedings of a Sub-divisional Officer under this Chapter shall be subject to revision by the Deputy Commissioner and by the Commissioner who may set aside or modify the orders of the Sub-divisional Officer in any way he thinks fit, but there shall be no appeal ^{as a matter of right, to either of the said officers}

(Secs. 45-48.)

Register of
proceedings.

45. Every Sub-divisional Officer shall keep, in such form as may from time to time be prescribed by the Commissioner, a register of his proceedings under this Chapter; and every payment made by any defaulter shall be duly entered in such register.

CHAPTER VII.

POLICE.

Power to
appoint
and dismiss
village-
chaukidars.

46. Subject to the approval of the Deputy Commissioner, the Superintendent of Police may, after consulting the house-holders of any village, appoint any person to be a village-chaukidar, and may, for any misconduct or neglect of duty, dismiss any village-chaukidar.

Constitution
of villages
and realiza-
tion of chow-
kidari dues.

47. (1) The Deputy Commissioner may, from time to time by written order,—

- (a) declare any local area or group of dwelling to be a village for the purposes of this Chapter, and
- (b) direct each house-holder of the village to make a monthly or annual payment, in money or in grain, or in both, of such amount as may be fixed by the Deputy Commissioner, after consulting such householders, to defray the cost of the salary and uniform of the village-chaukidar.

(2) The said payments shall be made to the headman, *sarbarakar* or other person appointed by the Deputy Commissioner in this behalf.

(3) It shall be the duty of the person so appointed to see that the said payments are punctually made, and duly to account for the same; and the Deputy Commissioner may impose a fine not exceeding ten rupees on any person who neglects to perform such duty.

(4) All arrears of the said payments may be realized from the said house-holders, under the written order of the Deputy Commissioner in each case, by sale of the defaulter's moveable property.

(5) The Deputy Commissioner may authorize the Sub-divisional Officer to exercise all or any of his powers under this section.

48. Every village-chaukidar who—

- (a) withdraws from the duties of his office without the express permission of the Superintendent of Police or of some officer duly authorized by him to grant such permission, or

Penalty for
village-chau-
kidar with-
drawing from
his duties,
etc.

(Secs. 19-30.)

(b) resigns his office without the permission of the Superintendent of Police, unless he has given at least two months' notice of his intention to resign, or

(c) is guilty of cowardice,

shall be liable, on conviction before a Magistrate, to a fine not exceeding ten rupees:

Provided that no prosecution shall be instituted against any village-*chaudidar* under this section without the previous sanction of the Deputy Commissioner.

49. Any village-*chaudidar* who is guilty of any wilful misconduct in his office or neglect of his duty, Power to En-
village chas
disorderly,
incendiary.

such misconduct or neglect not being an offence within the meaning 500. of the Indian Penal Code, or of section 18, and not being of so grave a character as, in the opinion of the Superintendent of Police, to require his dismissal from his office,

shall be liable, under the orders of such Superintendent, to a fine not exceeding three rupees.

50. Every village-*chaudidar* appointed under this Regulation shall perform the following duties, namely:— Duties of
village-
chaudidar.

- (i) he shall give immediate information to the officer in charge of the police-station within the limits of which the village of which he is a *chaudidar* is situated, of all the matters specified in section 45 of the Code of Criminal Procedure, 1898, which may occur within such village or which may come to his notice otherwise;
- (ii) he shall keep the police informed of all disputes which are likely to lead to any riot or serious affray;
- (iii) he shall arrest—
 - all proclaimed offenders and escaped convicts,
 - all persons whom he may find in the act of committing any of the offences specified in section 45 of the Code of Criminal Procedure, 1898, and
 - any person against whom a reasonable suspicion exists of his having been concerned in any offence so specified, whether such offence has been or is being committed within or outside his village;
- (iv) he shall observe, and from time to time, report to the officer in charge of the police-station within the limits of which such village is situated,—

the movements of all bad characters in each village,

(Secs. 51-54.)

the movements of any other person who may be lurking in such village without any ostensible means of subsistence, or who cannot give a satisfactory account of himself;

- (v) he shall report to the officer in charge of the said police-station the arrival of any suspicious characters or vagrants or wandering gangs in the neighbourhood;
- (vi) he shall present himself at the said police-station at such intervals as the Deputy Commissioner may direct;
- (vii) he shall supply any local information which the Deputy Commissioner or the Superintendent of Police may require; and
- (viii) he shall obey the orders of the Deputy Commissioner and of the Superintendent of Police with respect to—

the place where he is to reside, keeping watch in the village, and other matters connected with his duties as village-*chaukidar*.

Procedure on
arrest by
village-
chaukidar.

51. Whenever a village-*chaukidar* arrests any person, he shall forthwith take the person so arrested to the police-station within the limits of which the village of which he is a *chaukidar* is situated:

Provided that, if the arrest is made at night, such person may be so taken as soon as convenient on the following morning.

Appeal from
order of
Superinten-
dent of
Police.

52. An appeal shall lie to the Deputy Commissioner from every order of the Superintendent of Police punishing a village-*chaukidar* with fine or dismissal; and, subject to the general power of revision of the Commissioner, the order which the Deputy Commissioner may pass on such appeal shall be final.

Application
of the Police
Act, 1861.

53. The district shall be deemed to be a general police-district within the meaning of the Police Act, 1861, as modified by the Bengal Police Act, 1869; and, except in so far as the Local Government otherwise directs, the Commissioner shall exercise in it all powers and authorities conferred on an Inspector-General of Police.

V of 1861.
Ben. Act VII
of 1869.

Power to
make rules.

54. (1) The Local Government may make rules—

- (a) to regulate the appointment, and to prescribe additional duties, of village-*chaukidars*,
- (b) to regulate the grant of rewards to village-*chaukidars*, village officers and *panchayats*,
- (c) to prescribe the duties and powers of *sarbarakars*, *sardars*, *mutha maliks* and other village head-men, and members of *panchayats*, as officers of police,

(Secs 55-57)

(d) to prescribe the manner in which village-officers shall watch and inspect bad characters, and

(e) to prescribe penalties for the breach of rules made under clause (c) or clause (d) of this section

(2) The penalties prescribed under clause (c) may be fine extending up to fifty rupees, or imprisonment extending to three months, or both.

CHAPTER VIII

REGISTRATION OF DOCUMENTS

55. (1) The Sub divisional Officer of Angul and the Sub divisional Officer of the Khondmils shall be *ex officio* Sub-Registrars of their respective sub-divisions Sub-Registrars

Provided that the Deputy Commissioner may, with the approval of the Commissioner, direct any other gazetted officer to perform the duties of Sub Registrar of either sub-division instead of the Sub-divisional Officer, and any officer to whom such a direction is given shall thereupon be a Sub Registrar *ex officio*

(2) The Local Government may appoint such other persons as it thinks proper to be Sub Registrars for the sub-divisions of the district, or for any part of them.

(3) Every Sub-Registrar shall be deemed to be a public servant within the meaning of the Indian Penal Code

56. (1) The Deputy Commissioner shall be *ex officio* Registrar of the district, and all Sub Registrars appointed by or under section 55 shall be subject to his general control and superintendence

(2) The Deputy Commissioner may, by order in writing, delegate his powers as Registrar during his absence from headquarters to any Sub Registrar

57. All documents may be registered at the option of the parties by whom or in whose favour such documents are executed, but the Local Government may, by notification in the Bihar and Orissa Gazette, declare, with respect to documents of any class described in such notification, that

(1) that documents of that class executed on or after a date to be prescribed by the Local Government, and deposited or deposited to create, declare, or otherwise establish a right in the present or future, shall be registered, whether required or voluntary to be registered, and

(Secs. 58-60.)

in any part of the district specified in the notification, shall be registered in accordance with the provisions of this Regulation, and

- (b) that no such document shall affect any property comprised or referred to therein, or shall be received in evidence of any transaction affecting such property unless it has been so registered.

Power to
make rules.

58. (1) The Local Government may make rules to regulate the registration of documents under this Regulation.

(2) In particular, and without prejudice to the generality of the foregoing provisions, the Local Government may make rules—

- (a) to define the time, place and mode of presenting documents for registration;
- (b) to regulate the duties and powers of registering officers and of the Deputy Commissioner as *ex officio* Registrar, and to specify the cases in which those officers may enforce the appearance of executants and witnesses; and
- (c) to fix the fees payable for registration, searches and copies, and the time when fees shall be payable.

(3) All such rules shall be published in the Bihar and Orissa Gazette.

(4) The provisions of sections 81 and 82 of the Indian Registration Act, 1908, regarding offences by registering officers and other persons, shall, so far as they can be made applicable, apply to like offences when committed with respect to the registration of documents under this regulation. XVI of 1908

CHAPTER IX.

LANDLORD AND TENANT.

Meaning of
"raiyat."

59. In this Chapter, the word "*raiyat*," as used with reference to any land, includes a village *sarbarakar* as regards land possessed and cultivated by him.

Raising of
rent of *raiyati*
land.

60. No Court shall enforce or recognize any contract which affects the rent payable by a *raiyat* for his holding—

- (a) where there has been a settlement, by enhancing the rent recorded at such settlement or by making such rent payable in a manner different from that recorded at the settlement,
- or

(Secs. 61-62.)

(b) where there has been no settlement, by enhancing the rent to an amount exceeding that which the Court considers fair and equitable,

unless the contract or agreement has been made with the written permission of the Deputy Commissioner.

61. (1) No transfer or change (whether permanent or temporary) by a tenure-holder or *rayat* of his right in his tenure or holding or any portion thereof, whether by mortgage, lease, sale, gift, exchange or otherwise, shall be valid unless it is made with the written consent of the Deputy Commissioner. Restrictions on transfer of their rights by tenure-holders or rayats.

(2) No transfer or change in contravention of sub-section (1) shall be registered, or shall be in any way recognized as valid by any Court, in the exercise of civil or revenue jurisdiction.

(3) If any tenure-holder or *rayat* transfers his right in his tenure or holding or any portion thereof in contravention of sub-section (1), the Deputy Commissioner may, in his discretion, eject the person in possession of the land in respect of which such transfer was made, and may either—

(a) restore the land to the tenant who transferred it, or to any of his heirs, or

(b) re-settle the land with another tenant.

Explanation.—For the purpose of this sub-section a mortgage with possession shall be deemed to be a transfer.

(4) No suit shall be maintainable in any Court in respect of such ejectment; but an appeal shall lie to the Commissioner if presented within three months from the date of the order of ejectment, and his decision shall be final:

Provided that nothing in this section shall affect the validity of any transfer of a *rayat's* right in his holding or any portion thereof made in the Khoudmali sub-division before the first day of January, 1897.

62. No decree or order shall be passed by any Court for the sale of the right of a *rayat* in his holding, nor shall any such right be sold in execution of any decree or order: Prohibition on sale of right of rayat in his holding in execution of any decree or order.

Provided that:—

(a) any holding may, subject to the restrictions imposed by section 11, be sold, in execution of a decree of a competent Court, to recover an arrear of rent which has accrued in respect of the holding;

(b) nothing in this section shall prevent the sale of a holding under Chapter VI, and

(Secs. 63-68.)

(c) in the Khondmals sub-division, nothing in this section shall affect the right to execute a decree for sale of a holding passed, or the terms or conditions of any contract registered, before the first day of January, 1905.

Procedure on
surrender
or abandon-
ment of
holding.

63. If a *raiyat* surrenders or abandons his holding, the Deputy Commissioner may, in his discretion, settle the holding with any heir or relation of such *raiyat*, or with any other *raiyat*.

Ejectment.

64. A tenant shall not be ejected from his tenure or holding without an order of the Deputy Commissioner.

Delegation
of powers of
Deputy Com-
missioner.

65. With the previous sanction of the Commissioner, the Deputy Commissioner may delegate all or any of his powers under this Chapter to the Sub-divisional Officer.

Control by
Commis-
sioner.

66. All proceedings of the Deputy Commissioner or Sub-divisional Officer under this Chapter shall be subject to revision by the Commissioner.

Power to
make rules.

67. The Local Government may make rules—

- (a) to provide for the recording of changes occurring in tenancies in the Angul Sub-division, and the conduct of inquiries respecting such changes;
- (b) to regulate the conduct of inquiries respecting changes in tenancies in the Khondmals Sub-division;
- (c) to prescribe the duties of *sardars*, *mutha maliks* and heads of villages as to reporting changes in tenancies;
- (d) to regulate the maintenance of survey and settlement records;
- (e) to prescribe the duties of village *sarbarakars*, *kanungos* and revising officers;
- (f) to guide the Deputy Commissioner or Sub-divisional Officer in the exercise of any of his powers under this Chapter; and
- (g) to prescribe a penalty which may extend to a fine of one hundred rupees for the breach of any rule made under clauses (a), (b), (c), (d) and (e) of this section.

CHAPTER X.

SANITATION.

Power to
make rules

68. (1) The Local Government may, by notification in the Bihar and Orissa Gazette, declare that any area specified in such notification

(Sec. 69.)

shall be subject to Sanitary and Municipal control, and may make ^{as to such} rules to provide for such control.

(2) Such rules may provide for—

- (i) preventing nuisances affecting the public health, safety or convenience;
- (ii) regulating the disposal of night-soil, the contents of privies, drains and cesspools, offensive matter, carcasses of animals and rubbish and the management of privies, drains and cesspools,
- (iii) regulating cremations and burials and the disposal of corpses;
- (iv) regulating the use of, and preventing nuisances in regard to, public water supply, bathing and washing places, rivers, streams, reservoirs, tanks and wells,
- (v) regulating traffic on roads, and preventing obstructions, encroachments and nuisances on or near roads,
- (vi) preventing damage to, or encroachment on public lands or grounds,

and may provide that the breach of any such rule shall be punishable with fine which may extend to twenty rupees

CHAPTER XI

MISCELLANEOUS

60. (1) The Deputy Commissioner may require, or authorize any Subdivisional Officer to require, any proprietor, farmer, rent collector, ^{or any person} ~~landholder, or other person~~ ^{in possession of} land.

(a) to furnish such information, accounts and documents as he may be capable of furnishing, and

(b) to supply provisions and labour at market rates for the use of troops and officers of the Government marching in or through the district of the public service

(c) Any person failing to comply with any such requirement shall be punishable with fine which may extend to one hundred rupees.

(d) Any person appointed by an order of the Deputy Commissioner under this act may appeal to the Commissioner, who shall decide thereon.

(Secs. 70-75.)

Auction-sales
and liability
of auction-
purchasers.

70. (1) Whenever any property is sold by public auction by or under the orders of a public servant competent to cause the sale of such property, the auction-purchaser of such property shall be bound to pay the amount for which such property is sold, at such time and at such place as may be notified at the time of sale, and shall be bound to conform to all the conditions under which the sale is made.

(2) If the auction-purchaser fails to pay the amount for which the property is sold, at such time or place as is notified at the time of sale, or fails to comply with any of the conditions under which the sale is made, the officer by or under whose orders the property is sold may direct the re-sale of such property.

(3) Such re-sale shall be made at the risk of the auction-purchaser at the first sale; and the difference between any bid made by him and the proceeds of the second sale rendered necessary in consequence of his default shall be recoverable from him, together with all costs incurred, as a sum due to the Government.

Explanation.—The expression “public servant,” as used in this section, has the same meaning as in the Indian Penal Code.

XLV of 18

Control of
agents and
petition-
writers.

71. The Deputy Commissioner may, with the sanction of the Commissioner, make rules to regulate the writing of petitions and the conduct of cases in his Court and in the Courts subordinate to him.

Legal prac-
titioners

72. The Local Government may make rules to prohibit, restrict or regulate the appearance of legal practitioners in cases arising in the district.

Power of
Court to
grant ex-
emption
from pay-
ment of
court-fees.

73. Notwithstanding anything contained in the Court-fees Act, 1870, VII of 1870 the presiding officer of any Court may, in special cases, by an order in writing and for reasons to be recorded therein, exempt any document from the payment of such fees.

Oath or
solemn
affirmation.

74. Notwithstanding anything contained in the Indian Oaths Act, X of 1873, 1873, any form of oath or solemn affirmation which is common amongst, or is held binding by, the persons of the race or persuasion to which any witness in, or party to, any judicial proceeding (not being the accused in any criminal proceeding) belongs, and is not repugnant to justice or decency, and does not purport to affect any third person, may be administered to such witness or party.

Repeal.

75. The Angul District Regulation, 1894, and the Angul District Regulation of 1894, (Amendment) Regulation, 1904, are hereby repealed.

IV of 1904.

THE SCHEDULE.

ENACTMENTS DECLARED IN FORCE IN THE DISTRICT OF ANGUL ON
PART THEREOF.

(See Section 3)

1	2	3
Number and year.	Short title.	Places in which is force.

PART I.—Bengal Regulations.

II of 1793 (section 7 and clause ten of section 8).	The Bengal Land revenue Regulation, 1793	The whole district.
X of 1804	The Bengal State offences Regulation, 1804	Do.
XI of 1806	The Bengal Troops Transport and Travelers' Assistance Regulation, 1806.	Do.
XI of 1812	The Bengal Foreign Immigrants Regulation, 1812.	Do.
III of 1818	The Bengal State Prisoners Regulation, 1818.	Do.
XI of 1822 (section 39) .	The Bengal Government Indemnity Regulation, 1822.	Do.
VI of 1823	The Bengal Troops Transport Regulation, 1823.	Do.
XVII of 1829	The Bengal Fairs Regulation, 1829	Do.

PART II.—Acts of the Governor General of India in Council.

XVIII of 1850	The Judicial Officers' Protection Act, 1850.	The whole district.
XXXIV of 1850	The State Prisoners Act, 1850	Do.
XII of 1853	The Legal Representatives' Suits Act, 1853	Do.
XIII of 1853	The Indian Fatal Accidents Act, 1853	Do.
XV of 1856	The Hindu Widows' Remarriage Act, 1856	Do.
XI of 1857	The State of Orissa Act, 1857	Do.
III of 1864	The State Prisoners Act, 1864	Do.
XLV of 1869	The Indian Penal Code	Do.
V of 1861	The Police Act, 1861	Do.

(The Schedule.)

THE SCHEDULE—contd.

1	2	3
Number and year.	Short title.	Places in which in force.

PART II.—Acts of the Governor General of India in Council—contd.

III of 1864	The Foreigners Act, 1864	The whole district.
IV of 1869	The Indian Divorce Act	Ditto.
VII of 1870	The Court-fees Act, 1870	The Angul Sub-division.
I of 1871	The Cattle-trespass Act, 1871	The whole district.
V of 1871 (section 15)	The Prisoners Act, 1871	Ditto.
I of 1872	The Indian Evidence Act, 1872	Ditto.
III of 1872	The Special Marriage Act, 1872	Ditto.
X of 1873	The Indian Oaths Act, 1873	Ditto.
II of 1874	The Administrator General's Act, 1874	Ditto.
IX of 1874	The European Vagrancy Act, 1874	Ditto.
XIV of 1874	The Scheduled Districts Act, 1874	Ditto.
I of 1878	The Opium Act, 1878	Ditto.
VI of 1878	The Indian Treasure-trove Act, 1878	Ditto.
VII of 1878	The Indian Forest Act, 1878	Ditto.
VIII of 1878 (sections 144 to 154). . . .	The Sea Customs Act, 1878	Ditto.
XI of 1878 (except section 15). . . .	The Indian Arms Act, 1878	Ditto.
V of 1881	The Probate and Administration Act, 1881	Ditto.
XIX of 1883	The Land Improvement Loans Act, 1883. . . .	Ditto.
XIII of 1885	The Indian Telegraph Act, 1885	Ditto.
XVIII of 1885	The Land Acquisition (Mines) Act, 1885	Ditto.
IX of 1887	The Provincial Small Cause Court Act, 1887. . . .	Ditto.
VII of 1889	The Succession Certificate Act, 1889	Ditto.
I of 1890	The Revenue Recovery Act, 1890	Ditto.
VIII of 1890	The Guardians and Wards Act, 1890	Ditto.

(The Schedule.)

THE SCHEDULE—*contd.*

1	2	3
Number and year.	Short title.	Places in which in force.

PART II.—*Acts of the Governor General of India in Council—contd.*

XI of 1890, section 2, except sub section (2), section 5, so much of section 8 as relates to section 5, and sections 9 and 11.)	The Prevention of Cruelty to Animals Act, 1890.	The whole districts.
XIII of 1890 (section 9).	The Excise (Malt Liquors) Act, 1890	Distt.
I of 1894	The Land Acquisition Act, 1894	Distt.
IX of 1894	The Prisons Act, 1894	Distt.
III of 1897	The Epidemic Diseases Act, 1897	Distt.
VIII of 1897	The Reformatory Schools Act, 1897	Distt.
X of 1897	The General Clauses Act, 1897	Distt.
XIV of 1897	The Indian Forest Rules Act, 1897	Distt.
V of 1898	The Code of Criminal Procedure, 1898	Distt.
VI of 1898	The Indian Post Office Act, 1898	Distt.
II of 1899	The Indian Stamp Act, 1899	The Angul Sub-division.
XIII of 1899	The Opium and Fany Act, 1899	The whole district.
III of 1900	The Promissory Act, 1900	Distt.
I of 1903	The Regulating and Amending Act, 1903	Distt.
VII of 1903	The Indian Works of Defence Act, 1903	Distt.
XV of 1903	The Indian Extradition Act, 1903	Distt.
I of 1904	The Promissory Act, 1904	Distt.
III of 1904	The Indian Currency Act, 1904	Distt.
V of 1904	The Code of Civil Procedure, 1904	Distt.
VI of 1904	The Explosive Substances Act, 1904	Distt.
IX of 1904	The Indian Land Revenue Act, 1904	The Angul Sub-division.

(The Schedule.)

THE SCHEDULE—concl'd.

1	2	3
Number and year.	Short title.	Places in which in force.

PART II.—*Acts of the Governor General of India in Council*—concl'd.

XVI of 1908 (sections 81 and 82).	The Indian Registration Act, 1908 . . .	The whole district.
IV of 1909	The Whipping Act, 1909	Ditto.
II of 1910	The Indian Paper Currency Act, 1910 . . .	Ditto.
V of 1910	The Dourine Act, 1910	Ditto.
VII of 1911	The Indian Army Act, 1911	Ditto.
IV of 1912 (except Chapter IV).	The Indian Lunacy Act, 1912	Ditto.

PART III.—*Acts of the Lieutenant-Governor of Bengal in Council.*

IV of 1865	The Bengal Prevention of Inoculation Act, 1865.	The Angul Su division.
V of 1875	The Bengal Survey Act, 1875	The whole district.
III of 1876	The Bengal Irrigation Act, 1876	Ditto.
I of 1899	The Bengal General Clauses Act, 1899 . . .	Ditto.
III of 1906	The Bengal Disorderly Houses Act, 1906 . .	Ditto.
V of 1909	The Bengal Excise Act, 1909	Ditto.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, 1811
8, HAYING STREET